

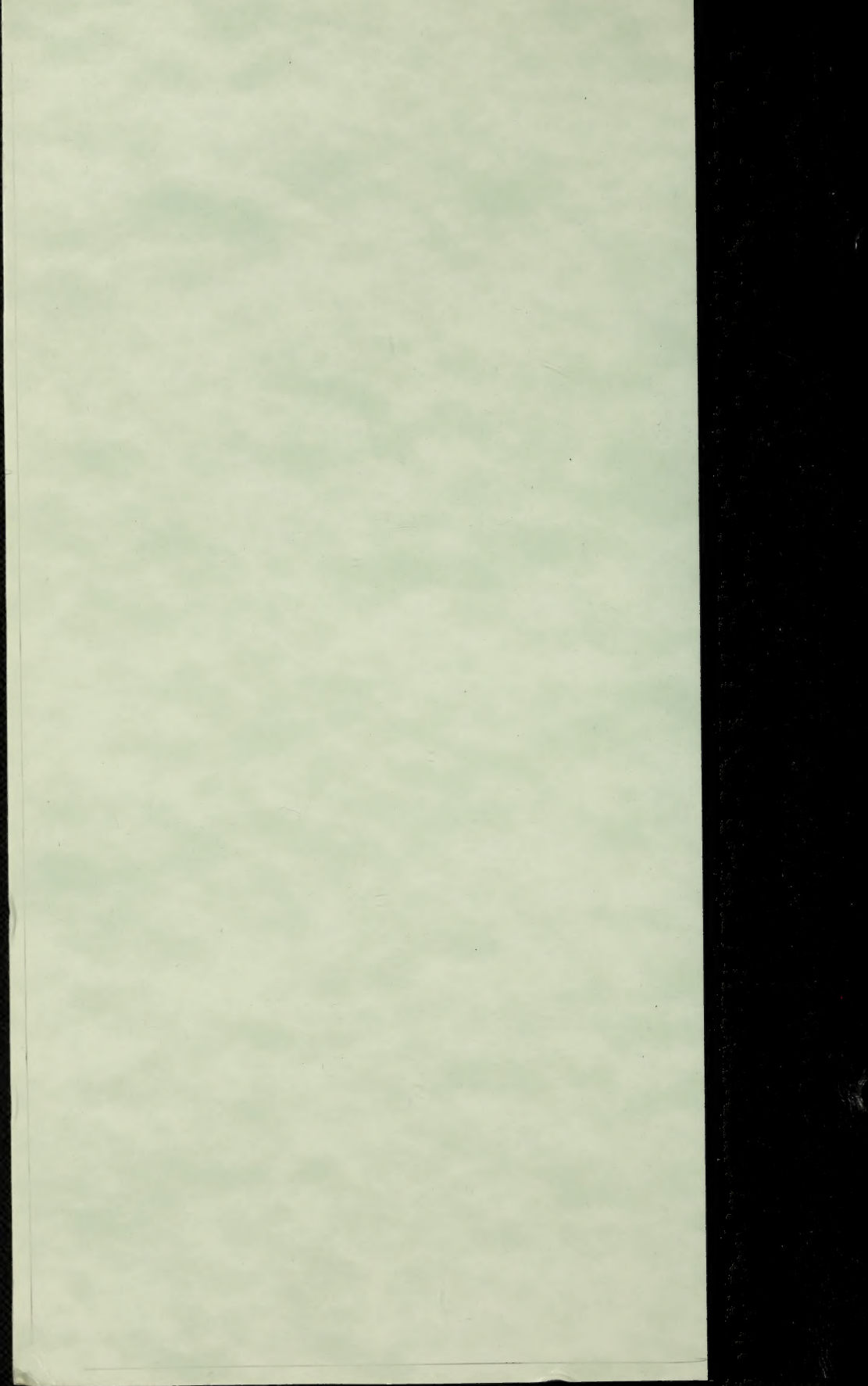
385.731

UN3

v.85-88

BINDING POSTS CAN BE CUT.

If too tightly bound to photocopy,
please take to the Circulation Desk so
personnel can remove plastic posts.



100

1971

100

100



OR CONFEAL

W. J. B. B. B.

385.731
Un 3
1970/71

Comm

ICC

85th Annual Report to Congress

1971

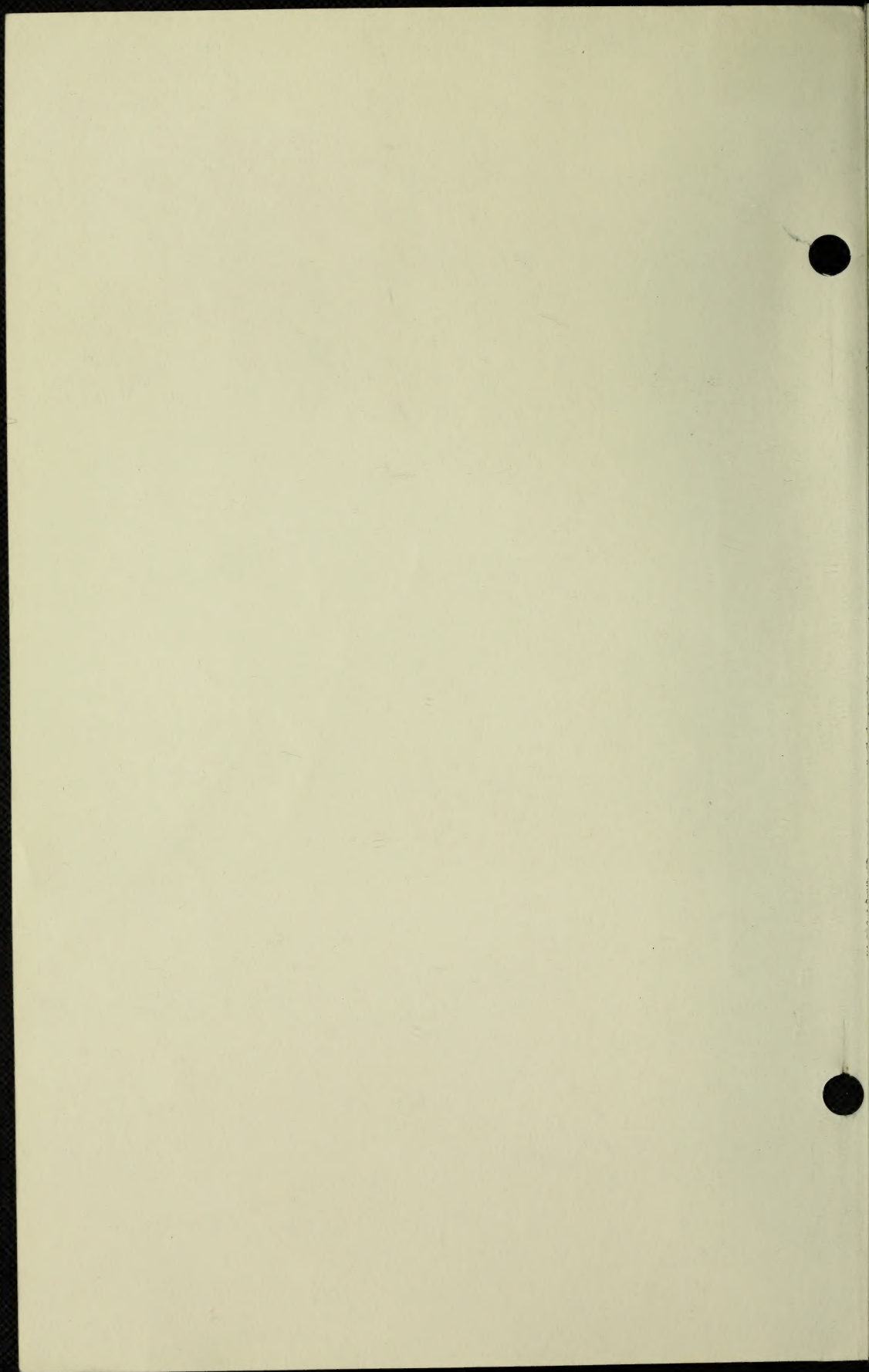
INTERSTATE COMMERCE COMMISSION

THE LIBRARY OF THE

MAR 7 1972

UNIVERSITY OF ILLINOIS
AT URBANA-CHAMPAIGN
Berman





85th Annual Report of the
**INTERSTATE
COMMERCE
COMMISSION**

Fiscal Year Ended June 30, 1971



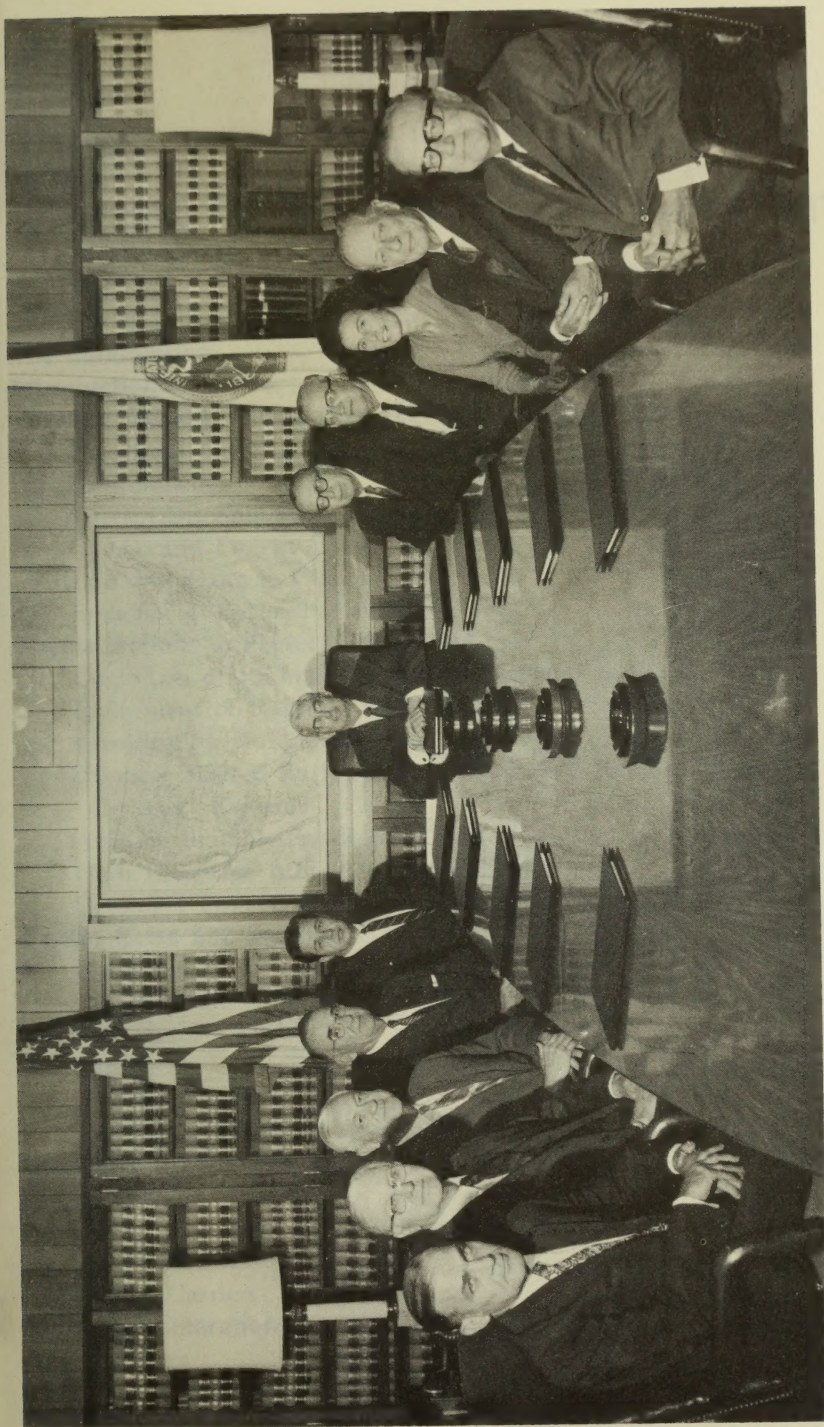
For sale by the Superintendent of Documents, U.S. Government Printing Office
Washington, D.C. 20402 — Price 70 cents (paper cover)
Stock Number 2600-0841

THE COMMISSION

			<i>Appointed</i>	<i>Term Expires Dec. 31</i>
George M. Stafford, <i>Chairman</i>	(R)	Kans. . . .	1967	1973
Dale W. Hardin, <i>Vice Chairman</i> . . .	(R)	Va.	1967	1977
Kenneth H. Tuggle	(R)	Ky.	1953	1975
Rupert L. Murphy	(D)	Ga.	1955	1971
Laurence K. Walrath	(D)	Fla.	1956	1972
John W. Bush	(D)	Ohio	1961	1971
Virginia Mae Brown	(D)	W. Va. . . .	1964	1977
Willard Deason	(D)	Tex.	1965	1972
Donald L. Jackson	(R)	Calif. . . .	1969	1973
Robert C. Gresham	(R)	Md.	1969	1974
W. Donald Brewer	(R)	Colo. . . .	1970	1976

The 11 members of the Commission are appointed by the President and confirmed by the Senate. No more than a majority of one may be of the same political party. During 1971, Commissioner Walrath was appointed to complete the unexpired term of Vice Chairman Hardin, and Vice Chairman Hardin and Commissioner Brown were reappointed to full 7-year terms.

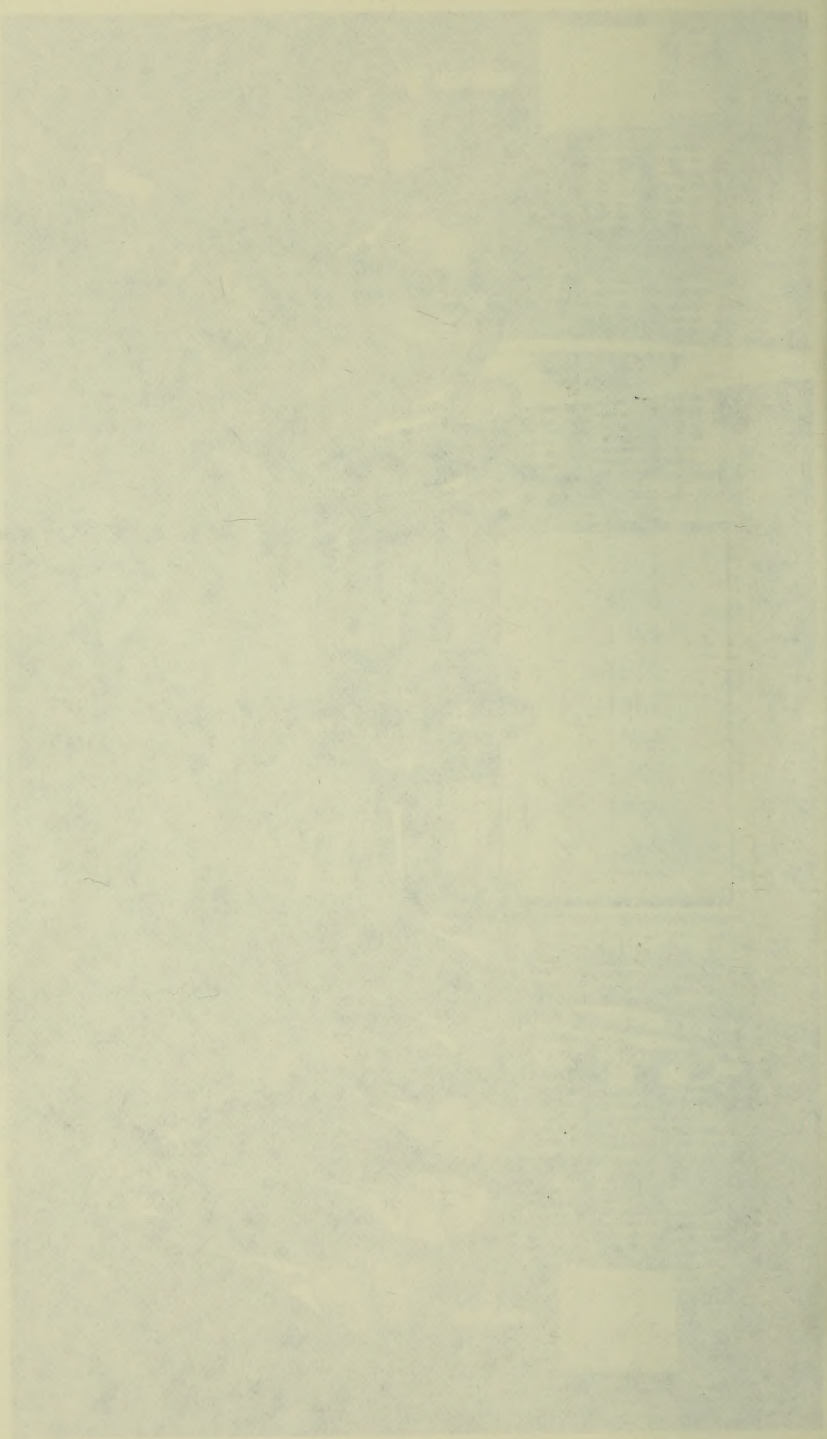
Organization chart and staff directory appear in Appendix A.



Interstate Commerce Commissioners (left to right) Gresham, Deason, Bush, Murphy, Hardin (Vice Chairman), Stafford (Chairman), Tuggle, Walrath, Brown, Jackson and Brewer.

THE UNIVERSITY OF CHICAGO

LIBRARY OF THE UNIVERSITY OF CHICAGO



CONTENTS

The Commission

Introduction

Forward Looking Regulation Through Rulemaking

Household Goods	7
Environment	8
Carrier Discrimination Practices	9
C.O.D. and Freight Collect Shipments	9
Loss and Damage Claims	10
Broadening Public Participation	10

Special Actions to Protect Consumers

Correction of Railroad Service Deficiencies	14
Refinement of Railroad Rate Structure	14
Investigation of Railroad Rate Base	14
Shippers Assured Early Access to Railroads' Rate Increase Evidence	15
Assisting the Shipping Public During Cessation of Transport	15
Plain Language Advice for the Public	15
Consumer Protection in Movement of Household Goods	15

Carrier Rates and Services

Rates and Charges	17
Railroads	17
Motor Carriers	22
Service	25
Railroads	25
Motor Carriers	38

Operating Rights (Property)

Intermodal	41
Motor Carriers	43
Freight Forwarders	52
Water Carriers	53

Passenger Operations

Railroads	55
Motor Carriers	61

Unifications

Mergers and Control Actions	63
Intermodal Acquisitions	65

Conglomerates and Diversifications

Railroads	67
Motor Carriers	69

Finance and Accounts

Reorganizations and Bankruptcies	72
Securities	72
Loan Guaranties	73
Accounts	73

Enforcement

Cartage Allowance	77
Misdescription of Shipment	77
Order Bills of Lading	77
Other Rail Rate Cases	77
Motor Carrier Rate Cases	78
Illegal Operations in Competition with Authorized Carriage	78
Carrier Capitalization	79
Civil Forfeitures	79
Trends	80
Intermodal Overseas Transportation	81

Administration

Caseload	82
Expediting Cases	82
Management	82

Legislative Activities

Appendix A—Commission Organization	97
Appendix B—Commission Workload	105
Appendix C—Enforcement Activities	110
Appendix D—Progress of Legislation Recommended by the Commission to the Congress	111
Appendix E—Publications	114
Appendix F—Appropriations and Employment	116
Appendix G—Transportation Statistics	
General	118
Railroads	120
Motor Carriers	125
Water Carriers	129
Freight Forwarders	132
Oil Pipelines	135
Index	141

To the Congress of the United States:

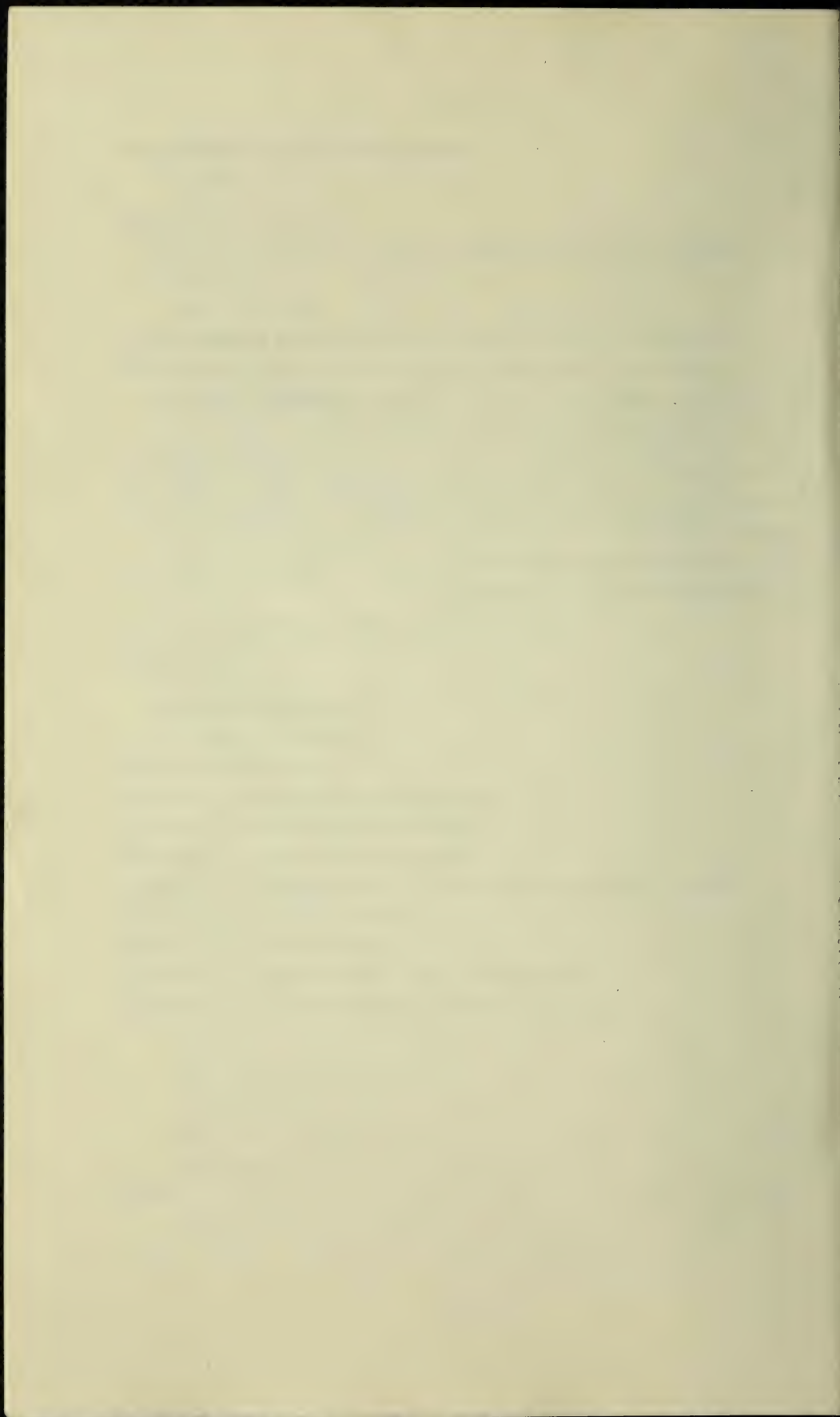
It is my pleasure to submit the eighty-fifth Annual Report of the Interstate Commerce Commission, in accordance with section 21 of the Interstate Commerce Act. This report documents Commission activities and accomplishments during fiscal year 1971.

The report generally embraces the 1971 fiscal year ended June 30, 1971, except in the discussion of significant actions that transcend the 12-month period or where necessary to conform to various statistical analyses.

The statement of appropriations and aggregate expenditures for the 1971 fiscal year appears in Appendix F.

Respectfully,

GEORGE M. STAFFORD
Chairman



INTRODUCTION

This is a report of the activities of the Interstate Commerce Commission for the 1971 fiscal year beginning July 1, 1970 and ending June 30, 1971.

It is a report of 11 Commissioners assisted by a staff of 1,661, two-thirds of whom serve at the headquarters in Washington, D.C., with the remainder situated in 80 offices throughout the country. It is a report that summarizes the manner in which the agency handled:

- 7,847 formal cases, principally involving rates, operating rights, and mergers.
- 17,521 informal cases, acted on under public observation but without the need for public hearing.
- 250 challenges in the Federal Court system.
- 294,864 tariffs requiring agency review.
- 741 examinations of accounting systems of regulated carriers.
- 12 appearances before Congressional Committees.
- 686 prosecutory actions against violators of the Interstate Commerce Act or Commission orders.
- Countless efforts to assist the public when it is confronted by railroad freight car shortages, movement of household goods' problems, and inadequate small shipment service.
- Formal and informal participation in the transition of rail passenger service from private to public operation.

These actions were taken against a background of:

- 84 Annual Reports for the prior years of Commission history.
- 256,369 formal decisions now bound in 443 volumes.
- 4,114 court actions; 748 at the Supreme Court level.
- 476 pages of law in the volume that embraces the Interstate Commerce Act and supplementary statutes.

The Interstate Commerce Act itself was based upon a considerable body of legislative history that was necessary to enact the laws that

protect the public interest through regulation of surface transportation in interstate commerce. Such legislative history has become part of the guidelines used in formulating regulatory policies. It includes:

- 1,456 pages of testimony (Cullom Report) that led to enactment of Part I of the act.
- 693 pages of testimony that led to enactment of the Hepburn Act which brought pipelines under Commission regulation in 1906.
- 1,058 pages of testimony that led to enactment of the Motor Carrier Act of 1935.
- 2,838 pages of testimony that led to enactment of the Transportation Act of 1940 which brought water carriers under Commission regulation.
- 1,056 pages of testimony that led to enactment of Part IV of the act which brought freight forwarders under Commission regulation in 1942.

There was ready public accessibility to this wide range of documentation for the rationale of regulation and the intent of the law, but some deep misunderstandings still were prevalent. The agency concluded it would be beneficial to issue an easy-to-read clarification of the purpose and performance of the regulatory process. Seven topics, representing the areas of most serious criticism, were selected for discussion.¹

These included:

- Passenger Train Service and Discontinuances
- Small Shipments
- Household Goods
- Freight Car Shortages
- Mergers
- Diversification and Conglomerates
- Rate Increases

Position papers were prepared on these subjects and issued in pamphlet form. Each area was examined in three aspects: the laws that direct our operations; the intent of the laws; and the manner in which we have interpreted the laws.

The Commission did not issue the position papers as conclusions in themselves, but as a medium for refinement of the Interstate Com-

¹ A position paper also was prepared on the Commission's budgetary support, a subject not within the criticism area, but one of the agency's major concerns. The report noted that the agency's staff is smaller than in the 30's, although the surface transportation industry has quadrupled and should increase 50 percent in the next decade.

merce Act to bring it closer to the current needs and realities of our surface transportation system and its proper function in the total economy currently and prospectively. To help meet these goals, the position papers set forth a declaration of the agency's intent to provide the Congress with a comprehensive package of legislative recommendations. This was submitted shortly after the close of the 1971 fiscal year (see page 95).

The views expressed in the position papers were directed to the implementation of the National Transportation Policy and answering the extremes of criticism that rallied against regulatory performance. Diametrically opposed charges ranged from suggestions for tightening controls over the transportation industry to the point of government expropriation of virtually all managerial discretion to abolishing regulation and freeing carriers from all regulatory restraints.

The advocates of placing carriers under strait-jacket control had little awareness of the need to permit competitive zeal adequate opportunity to employ the choices of proper managerial discretion. Immobilizing restraints only lead to a control stringency that borders on or becomes nationalization.

The exponents of deregulation contended that while the ICC was established in 1887 to protect the public from the excesses of the monopolistic practices of railroads, the 1800's type of monopoly no longer exists. Most commodities today are not captive to movement on the steel rail. This criticism of the rationale for regulation ignored the fact that the original Act to Regulate Commerce was necessary to protect the public from damaging practices of carriers caused by their preferential and prejudicial treatment of shippers. The reasons for bringing other types of interstate carriage under regulation also was forgotten. History clearly records that monopoly was not the principal concern. The reasons, in general, centered on the need to establish an obligation for carriers to provide fair and reasonable service in accordance with publicly filed tariffs and to develop some stability out of the chaos that was hampering carriers' service.

The Commission's position papers explored the role and performance of regulation as a prudent path between the extremes of stringent control and unbridled deregulation.

The position papers were issued on the Commission's initiative. A somewhat related report was developed in response to the recommendations of the President's Advisory Council on Executive Organization (The Ash Council).

The Council recommended consolidation of the transportation regulatory agencies: the ICC, the Civil Aeronautics Board, and the Federal Maritime Commission. Various procedural changes also were suggested.

In a report issued March 31, 1971, the Commission rejected the Ash Council's recommendations, concluding that such changes would lead to deregulation by default, contrary to the public interest. In its views the Commission:

- Disagreed with the Ash Council's conclusion that changes in the regulatory structure should be implemented in advance of changes in substantive laws.
- Reiterated its conviction that the agency should continue to be an arm of the Congress and accountable to that body.
- Disagreed with the Council's opinion that a collegial body, such as the Commission, embodies deficiencies that prevent effective regulation.
- Predicted that Administrative Court procedures advanced by the Council would seriously curtail regulatory efficiency and flexibility and bar a substantial segment of the public's access to the ICC, CAB and FMC.
- Denied that policy formulation suffers from overjudicialization and that coordinated, intermodal transportation is currently unachievable.
- Declared that significant improvements can be made within the present regulatory framework.

The listing beginning on page 11 provides an appraisal of the agency's strides in updating the railroad rate structure, the quality of human environment, civil rights, and the utilization of intermodal transportation.

FORWARD LOOKING REGULATION THROUGH RULEMAKING

The Commission recognizes that existing regulations which have come about as a result of the public's and the transportation industry's needs are not necessarily the standards which will meet the requirements of the future. Recognition of the problem accomplishes very little unless it precipitates action. The action line adopted by the Commission to help solve the problem places emphasis on rulemaking. This is one of the most effective tools for adapting regulation to today's rapid changes in transportation. It provides for the formulation of general policy guidelines, on other than a case-by-case approach.

The Commission has initiated a number of broad investigation and rulemaking proceedings, each of which is designed to alleviate specific aspects of the transportation difficulties confronting shippers and carriers. They range from investigation of household goods transportation to issues of ecology, consumer affairs, equal employment opportunities, C.O.D. shipments and loss and damage. Following the discussion of these categories, there is a complete list of recent and current rulemaking cases of the Commission (see page 11).

Household Goods

New regulations governing practices of motor common carriers of household goods became effective June 1, 1970 (*Practices of Motor Common Carriers of Household Goods*, 111 MCC 427). A nationwide association of household goods carriers subsequently petitioned the Commission to make a number of revisions in the regulations. The avowed purpose of the association's proposed revisions was to reconcile the regulations with mechanical, operational and accounting practices employed generally throughout the moving industry. However, in Ex Parte No. MC-19 (Sub. No. 11), 112 MCC 485, we found that the

proposed changes were substantive in nature and that their adoption would undermine the prevailing theme of full disclosure between the carrier and the moving family, a policy which the Commission was attempting to foster through the new rules. With the exception of a minor modification in the vehicle-load manifest form required by the regulations, which the Commission made of its own volition, the consumer-oriented regulations were left unchanged.

Two pending proceedings involve practices of household goods motor carriers. The first, a petition for declaratory order, was instituted after we received a letter from a household goods shipper requesting a determination as to whether or not a shipper of household goods must pay a carrier's charges after the shipment is totally destroyed by a fire in an accident en route (Ex Parte MC-19, Sub. No. 13). The second proceeding was initiated after a number of complaints regarding section 1056.6(d) of the new household goods regulations. This section requires that a shipper of household goods must pay a carrier's published charge for a reweighing requested by him, regardless of the difference between the weight obtained on the initial weighing and the reweighing of the shipment. We instituted this proceeding to determine whether or not it would be in the public interest to revise our regulations to allow a carrier to charge for the reweighing of shipments of household goods only in certain circumstances (Ex Parte MC-19, Sub. No. 14).

Our surveillance of household goods problems has revealed another aspect of carrier conduct which may extend into a circumvention of the letter and spirit of our revised rules. Thus, we initiated a proceeding to investigate the extent carriers are violating their published rules, purportedly to afford shippers an opportunity to reserve advance vehicle space. By inducing shippers to reserve space when it is unnecessary to do so or to reserve more space than a shipment is likely to require, carriers could effectively increase their revenues and avoid their obligations to render accurate estimates of their charges (Ex Parte MC-19, Sub. No. 15).

Environment

Because we share the rising public concern over deterioration of our natural surroundings caused by pollution and by the misuse and depletion of our land and natural resources, we have initiated two proceedings to give practical effect to this concern in the area of our statutory responsibilities.

The first proceeding is designed to encourage and support anti-pollution programs. As a direct result of our study we hope to implement an active transportation program which will lend support to plans for the reuse and recycling of waste materials (*Transportation of "Waste" Products for Reuse and Recycling—General Motor Carrier Licensing*, Ex Parte No. MC-85).

The goal of the second proceeding is to develop procedures necessary to complement the policies expressed in the National Environment Act of 1969. To implement the provisions of this law, we will consider the adoption of rules requiring all parties filing initial papers with the Commission to include an environmental impact statement, with a copy to be directed to the Council on Environmental Quality. In addition, a notice will be published in the Federal Register to inform the public that environmental issues apparently are present in a particular proceeding and to invite anyone interested to participate (*Implementation of Public Law 91-190, National Environmental Policy Act of 1969 and Related Requirements*, 339 ICC 508).

Carrier Discrimination Practices

In keeping with our public responsibilities, we have instituted a proceeding in which we will consider whether discrimination exists in the employment and other practices of Commission regulated carriers. The proceeding will determine whether any discrimination as may be found to exist is in violation of the law; whether the Commission has jurisdiction to deal with any unlawful discrimination which may be found; and whether the Commission should promulgate rules and regulations or undertake some other program respecting equal opportunity practices in surface transportation (*Equal Opportunity in Surface Transportation*, Ex Parte No. 278).

C.O.D. and Freight Collect Shipments

An increasing practice among carriers has been to limit the availability of service on C.O.D. and freight-collect shipments. Because vast segments of the national business community are either exclusively or largely dependent upon such carrier services, we instituted an investigation to determine the extent to which rules or remedial legislation may be required to protect the interests of the shipping public. The proceeding recognizes the growing anxieties of commercial interests, including many small businesses, that would be unable to market their products

in the absence of certain services traditionally provided by carriers, but now curtailed because of rising costs and delays (*Investigation into Limitations of Carrier Service on C.O.D. and Freight-Collect Shipments*, Ex Parte No. 272).

Loss and Damage Claims

As reported in our last annual report, we instituted a general rule-making proceeding to investigate regulated carriers' processing of loss and damage claims. Although our inquiry is comprehensive and participation by numerous parties has contributed to the making of a voluminous record, the study we have undertaken should prove to be fruitful from the standpoint of public service in an extremely sensitive area that directly affects a substantial portion of the Nation's total commerce (*Rules, Regulations and Practices of Regulated Carriers with Respect to the Processing of Loss and Damage Claims*, Ex Parte No. 263).

The Commission also instituted a rulemaking proceeding to consider adoption of a requirement that all motor common and contract carriers of property having average annual operating revenues of \$1 million or more file quarterly reports of freight loss and damage claims. This proceeding was instituted to provide hitherto lacking evidence of hard statistical facts on the extent and scope of losses sustained by industry as a result of theft of goods moving in the Nation's various commercial channels. Shortly after the close of the fiscal year, the Commission adopted the proposed regulations (*Quarterly Report of Freight Loss and Damage Claims*, 339 ICC 678).

Broadening Public Participation

Also important to parties who do not engage in Commission proceedings frequently were the measures taken to inform the public of carriers' reasons for proposing certain changes, such as rate increases. New rules now require motor carriers seeking general rate increases to conform to evidence requirements that enable the public to examine the basis for the proposed changes (*New Procedures in Motor Carrier Revenue Proceedings*, 339 ICC 324) (see page 23).

A complete list of rulemaking actions before the Commission in fiscal year 1971 follows:

Rulemaking Proceedings—Fiscal 1971

(*indicates action completed)

RULES AFFECTING THE BROAD RANGE OF TRANSPORTATION

<i>Case Number</i>	<i>Action</i>
No. 34013 (Sub 1)	Cost Standards in Intermodal Rate Proceedings.
Ex Parte No. 55 (Sub 4)	Implementation of National Environmental Policy.
Ex Parte No. 246	Revision of fees for processing actions before the ICC.
Ex Parte No. 261	Development of through intermodal transportation in U.S. ocean borne trade.
Ex Parte No. 263	Investigation of processing of loss and damage claims of regulated carriers.
Ex Parte No. 272	Investigation of problems encountered by shipping public on C.O.D. or freight-collect shipments.
Ex Parte 275	Securities and financial transactions (Uniform Commercial Code).
Ex Parte No. 278	Investigation of discrimination practices of carriers.
Ex Parte No. MC-1 (Sub 3)	Rules governing credit period following freight delivery.
Ex Parte No. MC-55 (Sub 3)	Procedural discovery rules.
Ex Parte No. MC-85	Support of programs for reuse and recycling of waste materials.
Ex Parte No. MC-86*	Implementation of the Postal Reorganization Act.

RAILROADS

Ex Parte No. 252 (Sub 1)*	Incentive per diem charges on Canadian railroad boxcars.
Ex Parte No. 264*	Piggyback regulations (circuitry).
Ex Parte No. 268	Determination of avoidable losses under the Railroad Passenger Service Act of 1970.
Ex Parte No. 269	Adequacy of service regulations under Railroad Passenger Service Act of 1970.
Ex Parte No. 270	Investigation of Railroad Freight Rate Structure.

<i>Case Number</i>	<i>Action</i>
Ex Parte No. 270 (Sub 1)	Investigation of Railroad Freight Structure—Export-Import rates and charges.
Ex Parte No. 271	Net investment railroad rate base.
Ex Parte No. 273	Substitution of Motor for Rail Service and Publication of Joint Motor-Rail rates on grain, etc. (Exempt commodities.)
Ex Parte No. 277	Adequacy and safety of railroad passenger service.

MOTOR CARRIERS

No. 35343	Requirements for motor carriers of property to file quarterly reports of loss and damage claims.
Ex Parte No. MC-5 (Sub 1)	Adequacy of coverage rules for licensed brokers of motor transportation.
Ex Parte No. MC-37 (Sub 4A) *	Commercial zones and terminal areas.
Ex Parte No. MC-19	Practices of motor common carriers of household goods.
(Sub 7)	Prohibition of different rate levels for identical movements.
(Sub 12) *	Exclusion of shipments requiring special handling.
(Sub 14)	Charges for reweighing shipments.
(Sub 15)	Investigation of violations of carriers' published rules for advance reservation of vehicle space by shippers.
(Sub 18)	Determination of shipper's obligation to pay carrier's charges after shipment is accidentally destroyed by fire en route.
Ex Parte No. MC-71	Criteria for determining compensatory nature of motor carrier rates of owner-operators.
Ex Parte No. MC-72	Motor Service on shipments of new furniture.
Ex Parte No. MC-78*	Use of school buses for nonschool functions.
Ex Parte No. MC-80	Requirements for motor common carriers of property to keep written rec-

<i>Case Number</i>	<i>Action</i>
	ords of service requests and to explain failures to meet requests.
Ex Parte No. MC-81*	Interpretation of operating authority (Tennessee).
Ex Parte No. MC-82*	Submission of evidence supporting general rate increases.
Ex Parte No. MC-83	Review of Administrative Ruling No. 76—contract carriers.
No. MC-C 3437	Motor transportation incidental to transportation by aircraft.
No. MC-C 6748	Determination if smoking on buses is detrimental to health and comfort of non-smoking passengers.
No. MC-C 6829	Investigation of limitation of free baggage allowance.
No. MC-C 7255	Investigation of employment practices.

FREIGHT FORWARDERS

Ex Parte No. 266*	Role of freight forwarders.
Ex Parte No. 266 (Sub 1)	Scope of terminal areas.

WATER CARRIERS

WC No.19	Standards for water carrier authority applications.
----------------	---

SPECIAL ACTIONS TO PROTECT CONSUMERS

Each of the rulemaking proceedings described in the previous chapter was of implicit or explicit benefit to consumers. In addition to the medium of rulemaking, however, the Commission instituted a variety of measures that represented bold moves to benefit the ultimate consumer:

Correction of Railroad Service Deficiencies

Concerned over deteriorating railroad service, the Commission ordered carriers to correct deficiencies and report quarterly on the remedies taken (Ex Parte No. 265). In the same proceeding the Commission came to the assistance of shippers facing the confusion of tariffs calling for general freight rate increases. The railroads were directed to update their tariffs so that charges can be ascertained without unreasonable difficulty (see page 18).

Investigation or Rationalization of Railroad Rate Structure

Not only consumers but everyone interested in attainment of rational railroad freight rates will be affected by the Commission's investigation of this issue in Ex Parte No. 270. The significance of this proceeding cannot be overemphasized. It will have an impact upon the pricing practices of all railroads, upon their ability to operate profitably and to compete with carriers of other modes, and upon the cost of their services to the public. Within the overall investigation the Commission also will look into export-import rate relationships (Ex Parte No. 270, Sub. No. 1). This separate proceeding could have a significant effect on regional and international commerce (see page 18).

Investigation of Railroad Rate Base

Companion to the broad freight rate study in Ex Parte No. 270, an

investigation in Ex Parte No. 271 is looking into the heart of railroad ratemaking by focusing on railroads' net investment as a rate base in measuring rate of return (see page 19).

Shippers Assured Early Access to Railroads' Rate Increase Evidence

New procedures were issued to help consumers desiring to protest railroad requests for general freight rate increases. Railroads now will be required to file all their evidence to support a general increase at the time of their initial request (49 CFR 1102) (see page 17).

Assisting the Shipping Public During Cessation of Transport

When a labor-management dispute resulted in termination of railroad service in May 1971, the Commission ordered its field offices throughout the country to assist the shipping public in obtaining alternative transportation. A flexible program permitted motor carriers to apply for the temporary authority required to meet the emergency needs of consumers (*General Temporary Order No. 6—Ex Parte No. MC-64*). Issuance of priority transportation authorizations assured that needed commodities would move without disruption (*General Emergency Transportation Order 1-71*) (see page 36).

Plain Language Advice for the Public

While most of the Commission's consumer protection actions were in the form of formal orders affecting carriers and shippers, informal guidance to the public was employed through the use of public advisories. In easy-to-understand language, cut bare of legal terminology, these advisories alerted the public of steps it can take to exercise its full measure of protection afforded by the Interstate Commerce Act. One offered helpful assistance for the movement of small shipments; the other two advisories concerned the movement of household goods (see page 38).

Consumer Protection in Movement of Household Goods

In addition to the issuance of the above public advisories to aid householders facing a movement of their furnishings and personal goods, the Commission took specific action to increase consumer safeguards by:

- Denying petitions to modify household goods rules established last year.
- Issuing an Administrative Ruling against the practice of carriers charging storage fees on a consumer's household goods because of a strike within the moving industry (Bureau of Operations Ruling No. 118).
- Prosecuting carriers who failed to comply with household goods movement regulations for protection of the consumer. Court fines ranged up to \$3,600 and Commission settlements through carriers' civil forfeitures were as high as \$3,800.

CARRIER RATES AND SERVICES

Rates and Charges (Railroads)

Freight rate levels and service adequacy are the ultimate confrontation for shippers.

The ultimate concern for carriers is the development of rates that are sufficiently competitive to induce shippers to purchase transportation services and sufficiently profitable to permit a feedback of capital for improvement of such services.

Development of rates is initially in the hands of carrier management. Once the tariffs are filed with the Commission, as they must be, a host of protective standards are raised to guard the public against the possibility that the rates are unreasonable, preferential, prejudicial or discriminatory.

In a year when all businesses faced rising costs of operation, the cost of the transportation function also climbed—but generally at a slower pace than most indices of the cost of living.

The rising rates—assessed primarily to catch up with costs—were not necessarily accompanied by improvement in the quality of service. With rates regulated to preclude favoritism and arbitrariness, service factors would be a major element in the competition among carriers and presumably self interest would motivate carrier management to guard the quality of their service. But the carriers do have an obligation to provide adequate freight service, giving a full measure for the price the public pays. Failure to meet the standard of adequacy required by the commerce of the people is ground for corrective regulatory action. Such action was taken this year by requiring railroads to file quarterly reports on the measures intended to rectify service deficiencies (339 ICC 125). In motor carrier operations, the Commission for the past few years has issued operating certificates with term limitations where necessary to assure proper service.

Rates.—On March 4, 1971, we approved general increases totalling 20 percent within the East, 18 percent within the West and 12 percent within the South and interterritorially (*Increased Freight Rates, 1970 and 1971, 339 ICC 125*). We found these increases were necessary to enable railroads to provide service required by the public interest. Numerous exceptions, in the form of maximum increases, were set in both proceedings. In addition, we found that the tariffs had become too complex, and we ordered the railroads to clarify future filings for general increases in rates so as to enable shippers to have a clearer understanding of the proposals without reference to numerous past general increase tariffs.

Growing out of these proceedings were two investigations that could set the pattern for refinement of the entire structure of railroad rates: Ex Parte No. 270, *Investigation of Railroad Freight Rate Structure* and Ex Parte No. 271, *Net Investment—Railroad Rate Base*.

Our intention in the Ex Parte No. 270 investigation will be to study the relationships of general rate increases to improvement of carrier revenues and the uneven impact of rate increases on individual railroads. Also to be considered are the disparities and distortions in the basic rate structure.

There has been valid concern about the effect of carriers' repetitive institution of fixed-percentage rate increases on all traffic. Not only is there the possibility that soundly conceived rate relationships can be disrupted, but some commodities can be placed in a position of carrying an improper burden in the overall rate structure. A number of parties have taken the position that the application of general freight rate increases, measured as percentages of existing rates, has disturbed the system of rate relationships and rate levels. To measure shifts in cost-revenue relationships due to railroad general rate increases of recent years the Bureau of Accounts completed a burden study for 1966, the year preceding the recent series of general increases. The study uses costs recomputed in accordance with the Commission's findings in Docket No. 34013 and traffic data from the Commission's 1966 1-percent waybill sample. The results of this study will be compared with a similar analysis covering 1969, using waybill information supplied by the Department of Transportation. Comparison of these two studies will indicate the contribution made by each commodity to the transportation burden and relative shifts for various commodities due to the application of the rate increases.

Beyond the consideration of the burden placed on various commodi-

ties by general rate increases, the Ex Parte No. 270 investigation will include a separate inquiry (Sub. No. 1) into the effect of export-import rate increases on port relationships.

The Ex Parte No. 271 proceeding involves an investigation of whether net investment as now used, or some other rate base, is the proper basis for measuring rate of return.

Because of the monumental task these two cases represent for the Commission, the agency's resources will be severely strained. However, the interests of the parties represented must be fully considered in all their aspects. Beyond the interests of the parties is our broader concern for the need of this Nation to have a realistic rate structure for railroads. Without such an attainment, transportation rates of all types of carriage will be out of step with sound economic principles.

Railroad requests for across-the-board increases on all freight tended to focus attention on this aspect of ratemaking because of the national impact. The carriers, however, attempted to remain competitive with other railroads as well as with other forms of transport through a constant readjustment of rates and charges in selected areas, such as ports, transit, grain, and demurrage.

Ports.—In contrast to the general trend of increasing rates and charges the Missouri-Kansas-Texas Railroad proposed to reduce export proportional rates on grain from Kansas City, Mo., to Houston and Texas City, Tex. (*Wheat and Grain Sorghums, Midwest to Texas Ports*, 337 ICC 777). MKT had offered the same rates to other Texas ports not served by it, but it could not agree with its connecting carriers on joint rates and divisions. Outstanding orders require equalization of rates on grain to Texas ports. No special justification was found to warrant exception from those orders, and the reduced rates were required to be canceled.

The Illinois Central railroad proposed its novel rent-a-train rates to move grain from stations on its line in Illinois. Because of lower barge rates from other origins, this area had previously been unable to participate in the export market to any significant extent. In *Grain by Rent-A-Train, IFA Territory to Gulf Ports*, 339 ICC 579, the rates were found unjust and unreasonable in two respects. First, we found there could be no refunds to shippers for the carrier's failure to maintain a guaranteed minimum speed. Instead, we found that provisions should be made for a guaranteed minimum number of trips. Second, since other shippers of grain by this carrier from the same origins have been unable to obtain a full supply of cars at certain times of the year, we

found that the plan should be restricted to movements in shipper-supplied cars.

A proposal to increase charges on waterborne traffic moving through these ports was found not shown to be just and reasonable in *Increased Waterborne Charge*, 337 ICC 534. While generally more terminal service is performed in connection with such traffic than on other traffic, the lack of cost evidence and inconclusive evidence of the total services did not warrant approval of the increases.

Two recent decisions will tend to stimulate the export movement of corn and soybeans from the midwest. For north Pacific coast ports, the Milwaukee railroad proposed multiple-car export rates to Seattle, Tacoma, and Longview, Wash., and Portland, Oreg., subject to the acquisition of trackage rights then in litigation. Traditionally, exports from the Milwaukee origin area had moved through the Gulf ports due to the shorter distance, which was reflected in the barge and rail rates. The proposed rates were found just and reasonable (*Corn & Soybeans, Midwest to Pacific Northwest*, 339 ICC 465). Division 2 noted that it is in the public interest that foreign commerce "be permitted to move freely through as many ports as the governing circumstances will reasonably permit; and that such diffusion of traffic will redound to the benefit of both producer and consumer."

In another complaint case, Portland, Oreg. and other lower Columbia River ports and barge interests assailed a proportional multiple-car rate on bulk export wheat and barley from Burbank, Kennewick, and Pasco, Wash., to the Puget Sound ports of Seattle and Tacoma, Wash., as being discriminatory to the Columbia River ports and constituting unfair competition under the national transportation policy. The complaint was dismissed on the ground that the rate was compelled by barge competition from the origins to the Columbia River ports (*Portland Freight Traffic Assn. v. Northern Pac. Ry.*, 337 ICC 826). The barge lines offered no evidence of their costs as support for the claim of destructive competition.

Transit.—A transit offered by a carrier enables a commodity to be shipped between two points, stored and then shipped to a third point at a rate less than the combination of the separate rates. New or increased per-car transit charges and track storage charges at virtually all transit points in the Nation were at issue in *Transit Charges, USA*, 339 ICC 45. Because of deficiencies in the railroads' cost evidence, especially sampling techniques and cost-to-revenue comparisons, the proposed charges could not be shown to be just and reasonable.

In another transit proceeding of national scope, the railroads proposed increased charges for stopping-in-transit for partial loading and unloading and a limitation on the number of stops for that purpose (*Stopping-in-Transit Charges & Restrictions*, 337 ICC 605). Division 2, in approving the increases, found that carriers must recover their costs for providing the services to avoid unlawful discrimination and are entitled to additional compensation. With respect to restricting the number of stops permitted, it was stated that the matter was within the railroads' managerial discretion so long as no unlawfulness was found to exist.

Grain.—Transit was also at issue for specific commodities, such as grain.

In one proceeding involving new charges per car for the first stop in transit to inspect grain, railroads urged that the overriding consideration in publishing the charges was increased car utilization. Division 2 found the proposed charges just and reasonable (*Inspection in Transit, Grain and Grain Products*, 339 ICC 364). However, it was determined that the proceeding involved an issue of general transportation importance, and petitions for reconsideration are under review by the entire Commission.

Annual-volume rates and charges, and related rules, on wheat and wheat flour from midwestern points to Arizona, California, and western New Mexico, were turned down to the extent that an annual volume was required. The schedules permitted individual movements as single- or multiple-car lots without limitation on the number of destinations or consignees to which the specified annual volume was delivered. Where single cars would move with other single cars subject to higher rates, unjust discrimination would result. Otherwise, the rates were found to be just and reasonable (*Wheat & Wheat Flour, Westbound*, 337 ICC 858).

Demurrage.—A proceeding of national scope was presented to the Commission in which increased charges, and rule changes having the same result were proposed for detention of cars (*Demurrage Rules and Charges, Nationwide*, 339 ICC 655). The carriers' purported purpose was the improvement of equipment utilization. There was considerable evidence that erratic and unreliable service by railroads prevented shippers from releasing cars during the allowed periods of free time. It was concluded, however, that the principal result of the proposal would be to increase carrier revenues—an improper function for demurrage. The charges were found by Division 2 not shown to be just and reasonable.

This proceeding was determined to involve general transportation importance, and petitions for reconsideration are being considered by the entire Commission.

In a complaint proceeding, demurrage charges collected by the railroad on multiple-car shipments were found applicable but their assessment was found, by Division 2, to be an unjust and unreasonable practice, and reparation was awarded (*Ormet Corp. v. Illinois Central R. Co.*, 337 ICC 653). The demurrage in this instance accrued when insufficient cars were available to load the minimum weight published in connection with the rate, in contrast to the ordinary situation where delays would occur in unloading and releasing equipment. Petitions for reconsideration are being considered by the entire Commission.

Less-Than-Carload.—Once again, we have reviewed the so-called 28300 class-rate structure. Docket No. 28300 was a prescription by the Commission of a class rate scale applying generally to all points east of the Rocky Mountains. The prescribed level of rates became effective on May 30, 1952. Some 400 rail common carriers, members of the Southwestern Freight Bureau, recently urged that the maximum 28300 class rates prescribed on less-than-carload (LCL) traffic of less than 10,000 pounds, as augmented by authorized increases, are no longer compensatory. As a result, the carriers have curtailed LCL service. We found there is little through rail LCL service available to the shipping public in 28300 territory, and that the purposes and objectives for the prescribed maximum rates on small shipments no longer prevail because of changed economic conditions. We, therefore, vacated that order to the extent it applied to shipments of less than 10,000 pounds, thus permitting the carriers new latitude and managerial discretion toward initiation, consideration, and publication of revised increased LCL class rates for the re-establishment and performance of adequate and efficient LCL service.

Rates and Charges (Motor Carriers)

Although the agency processed the customary thousands of formal and informal cases requiring agency approval or denial of proposed changes in rates and services by the trucking industry, the 1971 fiscal year was noteworthy for the range of broad policy decisions issued. These direction-setting actions represented further indication of the Commission's intent to rely more heavily on establishment of industry-wide guidelines in preference to the case-by-case method of regulation.

Rates.—To reduce the time necessary to rule upon general rate increases in the trucking industry we prescribed the minimum data and other information to be required in future actions (*New Procedures in Motor Carrier Revenue Proceedings*, 339 ICC 324). Our purpose was not to limit the type of evidence which might be introduced, but to speed the necessary processing, achieve greater uniformity in data submitted, and provide adequate notice to carriers and the public of the minimum evidence we deem necessary to render a decision in furtherance of the public interest. On reconsideration the previously prescribed procedures were modified in part (340 ICC 1).

A majority of the motor carrier industry was granted two general increases in rates during the fiscal year. The increases, in various percentages, applied to small shipments, volume, and truckload shipments and, in many cases, to minimum and accessorial charges. A general increase of five percent was allowed household goods carriers.

Postal.—On June 17, 1970, the Postmaster General filed with the Commission a request to increase postage zone rates on fourth-class mail and to impose a 35-cent surcharge on parcels over 36 inches in length or over 84 inches, length and girth combined. On July 16, 1970, we determined that the increased postage zone rates on parcels and catalogs had been substantiated by probative evidence and no further action was necessary. We did, however, set the 35-cent surcharge proposal for investigation and found it was not justified (*Fourth Class Rate Reforms—1970*, 339 ICC 449).

Joint Rates and Through Routes (Domestic-International).—In a proceeding involving an area of overlapping jurisdiction between this Commission and the Federal Maritime Commission, we authorized the filing of both joint and combination rates for movement over international-domestic through routes composed of ocean carriers under the jurisdiction of FMC and railroads, motor carriers, and water carriers under ICC (*International Joint Rates and Through Routes*, 337 ICC 625). We emphasized that it was not our intention to exercise control over the ocean carriers, but merely to permit the filing of joint rates in which they participated. The proceeding is pending on petitions for reconsideration.

Tariffs.—So as not to require the application of a series of ex parte increases in order for applicable rates to be ascertained, we have called for an updating of railroad tariffs (Ex Parte No. 267, *Increased Freight Rates*, 1971, see page 18).

As a consequence, railroads are eliminating various old tariffs, re-

publishing others and seeking special permission to expedite the updating procedure. The program is far from complete but significant progress is being made toward implementing the Commission's admonition that tariffs must be provided in a more readily usable form.

Suspensions.—A total of 4,412 rate adjustments involving changes in tariffs of rail, motor, water, freight forwarder, pipeline, and express carriers was considered by the Suspension Board. Of these, 1,819 reflected increases, 2,359 reductions, 178 both increases and reductions, and 56 neither increases nor reductions. There were 7,407 tariff publications of one or more pages involved in these adjustments. Protests totaled 5,414 of which 89 were from State or Federal Government agencies, and 3,614 were from shippers and receivers. The remaining 1,711 were from competing carriers. Statements in support of the proposals numbered 304. Petitions to vacate, investigate, or discontinue totaled 169.

In 290 instances, appeals were filed for reconsideration of the Suspension Board's conclusion not to suspend. Some 461 investigation and suspension proceedings were discontinued upon cancellation of schedules under special permission authority and advice that the carriers would not attempt to justify the suspended matter.

Action taken on proposals considered for suspension

	Rail	Motor	Water	Freight forwarder	Express pipeline	Number	Percent
Suspended in full	148	1,476	17	25	1	1,667	37.8
Suspended in part	2	59	0	2	4	67	1.5
Not suspended (permitted to become effective)	202	1,335	24	41	6	1,608	36.4
Otherwise disposed of (schedules rejected, protest withdrawn, protested schedules canceled by carriers)	40	1,012	2	13	3	1,070	24.3
Total	392	3,882	43	81	14	4,412	100.0

Informal Rate Cases.—While the heart of the Commission's regulatory program centers on the adjudication of formal cases, a large share of our resources is devoted to resolving controversies through informal actions. These include providing advisory opinions in tariff interpretation and in rate applicability. Resolution of problems in this manner saves time and expense for the public, shippers and carriers, as well as for the Commission. Informal complaints ruled upon by the Section of

Rates and Informal Cases of the Bureau of Traffic in this fiscal year totaled 2,406.

There were 218 applications and registrations received on the special docket. These petitions requested authority to refund freight charges already collected, or to waive collection for the future on grounds of unreasonableness. Refunds or waivers, totaling \$913,669, were authorized in 165 cases. The largest single award, \$53,535, involved 860 carloads of superphosphate from and to Bonnie, Fla. The award resulted from failure of the then-existent Atlantic Coast Line Railroad and the Seaboard Airline Railway to provide for physical interchange of cars at the points originally intended.

Service (Railroads)

Freight service provided by railroads can be viewed in both qualitative and quantitative senses. Upgrading of quality was approached by the Commission primarily through orders issued in Ex Parte No. 267, which required carriers to file quarterly reports on their corrective actions in areas in which the Commission found appreciable improvement was required. In particular, the Commission referred to terminal delays, interchange delays, erratic delivery and deliveries not reasonably timed or spaced. The railroads filed their first report at the close of the fiscal year. The quantitative measure of freight car service was affected principally by car shortages, abandonments, and work stoppages.

Car Shortages.—Railroad freight car shortages prevailed through fiscal year 1971, rising to more than 15,000 cars per day during heavy loading periods. Stepped up demands for boxcars to handle the annual grain harvest, the Government's grain relocation and export programs, and the peak movements of fall agricultural crops contributed to car supply difficulties. Shipper demands for boxcars to load lumber and forest products caused some shortages in Pacific Northwest loading areas. A permit system, for hopper cars used for export coal, put into operation by coal-originating railroads, helped ease coal-car shortages by freeing thousands of cars to move coal to utility companies and domestic consumers through the winter months. Steel price increases and an anticipated work stoppage in that industry, along with heavy requirements for cars to load sand, gravel, and other aggregates, created strong demands for gondola cars during the second half of the fiscal year.

While the number of freight cars in service continued its downward course, the capacity of cars increased with a trend toward fewer but larger cars. At the mid-point of the 1971 fiscal year there were 1,782,002 freight cars in railroad service, about 9,000 fewer than a year earlier. Following the pattern of recent years there were increases in the ownership of equipped boxcars and flat cars, while the number of plain box, gondola, open-top hopper, and tank cars declined. A notable equipment trend was the ownership increase by the mid-point of the 1971 fiscal year of over 8,000 high-capacity covered hopper cars for moving grain and other bulk commodities, replacing the general service boxcar for such traffic. In terms of carrying capacity, average freight car capacity had advanced 1.4 tons to 67.2 tons. New cars installed had an average capacity of 81 tons, compared with a 61-ton average for cars retired.

The Senate Commerce Special Subcommittee on Freight Car Shortages convened the first of a series of hearings in May for consideration of several pending bills designed to increase the Nation's freight car supply (see page 94).

The Commission during the past year, through its railroad car service agents, was actively engaged in the investigation and correction of inefficient and improper car handling practices by the railroads, shippers, and receivers. This had a direct bearing on the effective utilization of the freight car fleet.

Utilization of the available fleet has improved somewhat over the past few years. Car-miles per car-day average about 54.6, within one-half of one percent of the record high of 1969. The net ton-miles per freight car day, reflecting both car activity and weight of load, are at a level of about 1,418, an all-time high for this overall measure of freight car productivity.

The Commission continued the exercise of its emergency car service powers through the medium of service orders aimed at reducing car supply problems. An innovation in these orders that proved helpful in easing box, gondola, and open-top car shortages, was the use of so-called "exclusion orders." These orders required that this type of equipment be returned to owners empty, with some minor exceptions, to enable railroads with an inadequate ownership of cars to meet the loading requirements of their respective shippers.

An order¹ prescribing operating regulations for all freight car move-

¹ Service Order No. 1009.

ments, which has been in effect since 1968, is constantly being revised and strengthened as time goes on. The most recent change in the order established storage charges for railroads holding empty assigned equipment at loading points—cars specified by individual shippers.

This year, car distribution directives were issued in two instances to relieve carrier situations where the supply of hopper and boxcars was inadequate to meet shipper loading needs. Several rerouting orders were issued authorizing railroads unable to transport traffic in accordance with shippers' routing, because of bridge or track damage, work stoppage, floods, or high water conditions, etc., to reroute or divert such traffic over any available route to expedite its movement. Embargoes were placed in a few instances where accumulation and car delay prevented the prompt unloading and release of freight cars. (See listing of service orders, distribution directives, rerouting orders, and embargoes issued during the year, page 31.)

On March 18, 1971, a three-judge Federal District Court in Pittsburgh issued a permanent injunction restraining the Commission from enforcing Rules No. 1 and 2 of its mandatory Car Service Rules in Appendix G of the Commission's order in Ex Parte No. 241, *Investigation of Adequacy of Freight Car Ownership*, 335 ICC 264, 335 ICC 874. The Commission would have required the railroads to comply with Rules 1 and 2, which deal with the return of foreign empty cars to their owners' lines, in order to force railroads with inadequate ownership to buy more cars. The court's action did not affect the other provisions of the Commission's order of February 18, 1970, which became effective March 27, 1970. The decision of the court setting aside Rules 1 and 2 was appealed to the Supreme Court by the Commission on May 17, 1971. A companion case in Jacksonville, Fla., involving the car ownership formula and the car service rules as applicable to the Florida East Coast Railway, and certain interveners, was reopened for reargument on May 22, 1971. Temporary restraining orders entered by the Jacksonville court in favor of the Florida East Coast Railway remained in effect. On June 7, 1971, the Florida court affirmed the Commission's formula and dismissed the complaints of the railroads. The intervening railroads have filed a notice of appeal to the Supreme Court.

The basic per diem and incentive per diem rates (*Ex Parte 252, Sub. No. 1* and No. 31358) went into effect, as scheduled, on September 1, 1970. The new basic per diem formula prescribed by the Commission varies with the value of cars and is determined by the length of time

that cars are held and the miles they travel. The incentive per diem charges, which range up to \$12.98 a day for some of the newest and more expensive cars, is an additional fee over and above the basic per diem rate. The incentive charges apply from September through February each year and are designed to encourage the acquisition and maintenance of a car supply adequate to meet the needs of commerce and the national defense. Under court restraining orders the Seaboard Coast Line Railroad and the Florida East Coast Railway are not required to pay the incentive per diem rates; nor are they allowed to collect incentive per diem for the use of their cars by other railroads. The court provided in its restraining orders that it may later order the two exempt railroads to pay or receive the incentive per diem for the full period in accordance with special accounts that all railroads will be expected to maintain under an accounting order of the Commission (Accounting Series Circular No. 142).

In an order served September 1, 1970, the Commission granted the petition of the Canadian railroads for reconsideration, insofar as it concerns the payment of incentive per diem charges on cars owned by the Canadian roads. On December 8, 1970, the Commission ruled that the incentive per diem charge on boxcars of Canadian carriers should be paid directly, and those carriers are required to retain the funds in an escrow account until further order. Shortly after the close of the fiscal year, the Commission determined that the incentive per diem charges should be paid to the owning Canadian line, with transfer of the net balance of the incentive per diem, less taxes, to its U.S. designee.

Car supply—Cars installed, retired, and ordered

	Fiscal year			
	1956	1961	1966	1971
Cars installed:				
Box	28,531	11,742	24,828	16,292
Refrigerator	1,521	4,394	9,790	5,233
Gondola	3,245	4,555	6,616	5,906
Hopper	10,148	14,427	17,875	15,789
Covered hopper	5,028	2,042	11,154	7,911
Flat	2,219	2,253	5,055	1,958
Other	1,418	35	1,734	675
Total cars	52,110	39,448	77,052	53,764
Cars retired:				
Box	22,627	31,756	31,292	29,335
Refrigerator	3,259	4,511	2,896	7,028
Gondola	10,287	13,604	12,688	10,725
Hopper	24,174	28,179	22,311	17,406
Covered hopper	444	20	881	1,605
Flat	1,322	202	509	¹ 1,438
Other	2,042	2,442	2,697	2,875
Total cars	64,155	80,714	73,274	67,536
Cars ordered:				
Box	61,503	8,063	27,784	9,272
Refrigerator	7,030	2,385	8,143	6,045
Gondola	14,582	2,141	6,929	5,508
Hopper	45,727	6,286	12,573	16,917
Covered hopper	9,063	2,251	26,053	10,865
Flat	7,073	4,068	13,349	3,606
Other	12,781	3,377	13,557	6,815
Total cars	157,759	28,571	108,388	59,028

¹ Negative retirements. Indicate increases in ownership in excess of new installations resulting from reclassification or transfer of equipment, purchase or lease of used equipment, etc.

Ownership, serviceable ownership, and turnaround time, class-I railroads

	1956	1961	1966	1971
Ownership:				
Plain box	670,844	626,011	464,282	358,887
Equipped box	51,611	52,959	117,418	171,592
Total box	722,455	678,970	581,700	530,479
Refrigerators	99,429	90,936	102,297	98,707
Gondolas	278,423	261,827	211,819	185,537
Hoppers	506,411	476,769	426,230	390,398
Covered hoppers	44,539	64,995	97,402	134,883
Flat	48,749	53,858	63,942	75,444
Others	81,385	74,661	59,519	49,165
Total cars	1,781,391	1,702,016	1,542,909	1,464,613
Serviceable cars				
Plain box	647,021	570,124	436,033	327,475
Equipped box	47,699	49,040	113,457	162,577
Total box	694,720	619,164	549,490	490,052
Refrigerators	95,895	85,457	99,068	94,365
Gondolas	263,832	227,396	198,080	176,329
Hoppers	489,082	430,421	408,857	375,192
Covered hoppers	43,921	63,325	94,642	130,350
Flat	47,051	50,011	61,489	70,905
Others	77,440	71,275	56,732	46,853
Total cars	1,711,941	1,547,049	1,468,358	1,384,046
Turnaround time-days				
Box	15.78	19.18	19.40	22.35
Refrigerators	26.54	31.51	36.97	33.21
Gondolas	16.72	20.99	18.99	19.12
Hoppers	14.15	16.41	14.11	13.94
Covered hoppers	15.70	20.94	20.63	20.23
Flat	22.89	15.59	11.51	13.46
Average all cars	16.24	19.16	18.02	18.73

SERVICE ORDERS, DISTRIBUTION DIRECTIVES, REROUTING ORDERS, AND EMBARGOES—
FISCAL YEAR 1971

SERVICE ORDER NUMBERS:	Date effective	Purpose	Date of expiration	Date vacated
Amended				
994*	12-31-70	Rerouting of traffic-appointment of agents	12-31-71	
995*	12-31-70	Appointment of embargo agents	12-31-71	
1002*	12-31-70	Car distribution directions—Appointment of agents.	12-31-71	
Revised 1009*	10-31-70	Railroad operating regulations for freight car movement.	12-31-70	
Amended:				
1009	11- 9-70	.....do.	12-31-70	
1009	11-13-70	.....do.	12-31-70	
1009	12- 8-70	.....do.	12-31-70	
1025*	5-31-70	Regulations for return of covered hopper cars.	12-31-71	
1030*	9-30-70	Chicago, Rock Island & Pacific Railroad, authorized to operate over tracks of the Atchison, Topeka and Santa Fe Railway	12-31-71	
1030	12-31-70		3-31-71	
1030	3-31-70		6-30-71	
1030	6-30-71		9-30-71	
Revised:				
1037	11-28-70	Distribution of Boxcars (BAR & MEC)	5-31-71	
1037-A	11-28-70	.....do.		5- 3-71
Service Order No. 1040*	6- 3-70	Distribution of Refrigerator Cars	8-31-70	
Service Order No. 1040-A	6- 3-70	.....do.		8-25-70
Revised:				
1041*	7- 6-70	Distribution of boxcars	7-15-70	
1041	7-13-70	.....do.	8-15-70	
Amended 1041	9-15-70	.....do.	9-30-70	
Revised:				
1041	9- 3-70	.....do.	9-30-70	
1041	9-30-70	.....do.	10-31-71	
1041	10-12-70	.....do.	11-15-70	
1041	11- 1-70	.....do.	11-30-70	
1041	11-17-70	.....do.	11-30-70	
1041	11-20-70	.....do.	11-30-70	
1042*	9-30-70	Chicago and North Western railway authorized to operate over tracks of the Chicago, Rock Island and Pacific Railroad	12-31-70	
1042	12-31-70		3-31-71	
1042	3-31-71		6-30-71	
1042	6-30-71		12-31-71	
Revised 1043*	7-14-70	Regulations for return of hopper cars—(B&O, C&O, L&N, N&W, PC	9-30-70	
Corrected 1043*	9-30-70		12-31-70	
Amended:				
1043	12-31-70	B&LE)	6-30-71	
1044*	7-24-70	Chicago and North Western Railway authorized to operate over tracks of the Burlington Northern.	8-31-70	
1044	8-31-70		12-31-70	
Service Order No. 1045*	6-27-70	Distribution of Boxcars (C&NW, MILW)	7-15-70	
Service Order No. 1045-A	6-27-70	.....do.		7-13-70
Service Order No. 1046	7- 8-70	Toledo, Peoria & Western authorized to operate over tracks of the Peoria and Pekin Union Railway, Burlington Northern, Chicago, Rock Island and Pacific Railroad, and Toledo, Peoria & Western Railroad authorized to operate over tracks of the Peoria and Pekin Union Railway.	12-31-70	
Revised 1046	7-10-70		12-31-70	
Amended:				
1046	12-31-70	.....do.	6-30-71	
1040	6-30-71	.....do.	12-31-71	
Service Order No. 1047	7-11-70	Illinois Terminal Railroad authorized to operate over trackage of Chicago and North Western Railway.	12-31-70	
Service Order No. 1048	7-20-70	Union Pacific Railroad authorized to operate over tracks of the Southern Pacific.	12-31-70	
Amended 1048	12-31-70	.....do.	12-31-71	
Service Order No. 1049	9-30-70	Regulations for return of hopper cars	12-31-70	
Service Order No. 1049-A	.....do.			10-12-70
Service Order No. 1050	10- 1-70	Demurrage and detention charges on open-top hopper cars	12- 1-70	
Revised 1050	.....do.		12- 1-70	
Amended 1050	.....do.		1- 1-71	
Service Order No. 1051	10-12-70	Distribution of privately owned cars	12-31-70	
Amended 1051	12-31-70	.....do.	12-31-70	
Service Order No. 1051	10-12-70	Regulations for return of open-top hopper cars.	6-30-71	
Service Order No. 1053	11- 1-70	Distribution of boxcars	12-31-70	
Amended:				
1053	11-11-70	.....do.	11-30-70	

**SERVICE ORDERS, DISTRIBUTION DIRECTIVES, REROUTING ORDERS, AND EMBARGOES—
FISCAL YEAR—1971—Continued**

SERVICE ORDER NUMBERS:	Date effective	Purpose	Date of expiration	Date vacated
1053	11-17-70	.....do.		
Service Order No. 1054	11- 4-70	Distribution of boxcars (BCK)	11-30-70	
Service Order No. 1055	11- 5-70	Burlington Northern Inc. and Chicago, Milwaukee, St. Paul and Pacific Railroad authorized to operate over trackage abandoned by Sioux City Terminal Railway.	12-31-71	
Service Order No. 1056	11- 1-70	Distribution of boxcars	12-31-70	
Service Order No. 1056-A	12 -1-70	.....do.		12-17-70
Service Order No. 1057	1-21-71	The Atchison, Topeka and Santa Fe Railway authorized to operate over tracks of the St. Louis-San Francisco Railway.	4-30-71	
Amended 1057	4-30-71	.....do.	7-31-71	
Service Order No. 1058	1-26-71	Penn Central shall unload certain cars of beets held at Morrisville, Pa.	2-13-71	
Service Order No. 1059	1-13-71	Pennsylvania-Reading Seashore Lines shall unload certain cars of beets held at Glassboro, N.J. and at Tuckahoe, N.J.	12-13-71	
Amended 1059	2-13-71	.....do.	2-28-71	
Service Order No. 1060	1-26-71	The Reading shall unload certain cars of beets held at Macungie, Pa.	2-13-71	
Service Order No. 1061	1-27-71	Regulations for return of hopper cars	3-31-71	
Revised:				
1061	3- 5-71	.....do.	4-30-71	
1061	4- 1-71	.....do.	6-30-71	
1061	5- 6-71	.....do.	6-30-71	
1061	5-27-71	.....do.	6-30-71	
Service Order No. 1062	2-13-71	Distribution of Gondola Cars (PC, P&LE, RDG)	3-31-71	
Service Order No. 1062-A	2-13-71			3- 3-71
Service Order No. 1063	3- 1-71			
Revised 1063	4- 1-71			
Amended 1063	4-27-71			
Revised 1063	6- 7-71	Railroad operating regulations for freight car movement.	12-31-71	
Service Order No. 1064	3- 1-71	.....do.	12-31-71	
		.....do.	12-31-71	
		.....do.	12-31-71	
Corrected 1064	4- 5-71	Distribution of boxcars	6-30-71	
Revised:				
1064	4- 5-71	.....do.	6-30-71	
1064	6-30-71	.....do.	6-30-71	
Service Order No. 1065	3- 1-71	Distribution of boxcars	9-30-71	
Corrected 1065	3- 1-71	.....do.	6-30-71	
Revised:				
1065	3- 8-71	.....do.	6-30-71	
1065	3-15-71	.....do.	6-30-71	
Amended 1065	3-24-71	.....do.	6-30-71	
Revised:				
1065	4-17-71	.....do.	6-30-71	
1065-A	4-17-71	.....do.		4- 1-71
Service Order No. 1065	3- 3-71			
Revised:				
1066	3- 4-71	Distribution of Gondola cars	4-30-71	
1066-A	3- 4-71	.....do.	4-30-71	
Service Order No. 1067	3-15-71	Distribution of boxcars (C&NW Sys, IC)	6-30-71	
Amended:				
1067	3-24-71	.....do.	6-30-71	
1067	6-30-71	.....do.	6-30-71	
Service Order No. 1068	4- 1-71	Regulations for the return of Gondola cars	6-30-71	
Revised 1068	6- 1-71		6-30-71	
Service Order No. 1069	4- 6-71	St. Louis-San Francisco Railway authorized to operate over tracks of the Texas and Pacific Railway and to operate over tracks of Missouri-Kansas-Texas.	6-30-71	
Service Order No. 1070	4-19-71	Chicago, Rock Island and Pacific Railroad authorized to operate over tracks of Chicago and North Western Railway.	6-30-71	
Amended 1070	6-30-71	.....do.	12-31-71	
Service Order No. 1071	4-27-71	Distribution of boxcars	6-30-71	
Amended 1071	4-29-71	.....do.	6-30-71	
Service Order No. 1071-A	4-29-71	.....do.		5- 5-71
Service Order No. 1072	5-10-71	Distribution of boxcars (MEC)	6-30-71	
Amended 1072	6-30-71	.....do.	9-30-71	

**SERVICE ORDERS, DISTRIBUTION DIRECTIVES, REROUTING ORDERS, AND EMBARGOES—
FISCAL YEAR—1971—Continued**

SERVICE ORDER NUMBERS:	Date effective	Purpose	Date of expiration	Date vacated
Service Order No. 1073	5-12-71	Soo Line Railroad authorized to operate over certain trackage of Burlington Northern.	11-30-71	
Service Order No. 1074	6-30-71	Union Pacific Railroad authorized to operate over certain trackage of Burlington Northern.	12-31-71	
Service Order No. 1075	6-28-71	Distribution of refrigerator cars	7-31-71	
Order was in effect July 1, 1971.				
CAR DISTRIBUTION DIRECTION NUMBERS				
No. 91	9-28-71	The Baltimore and Ohio Railroad shall deliver to the Pittsburgh and Shawmut a weekly total of 100 empty B&O serviceable open-top hopper cars for return loading to the B&O.		
Amended: No. 91	10-11-70	.....do.	10-25-70	
No. 91	10-25-70	.....do.	11- 8-70	
Revised: No. 91	10-12-70	.....do.	11-22-70	
No. 92	10-12-70	The Gulf, Mobile and Ohio Railroad shall deliver to the Columbus and Greenville Railway a weekly total of 60 empty plain serviceable boxcars with inside length less than 44'8" and doors less than nine feet wide.	11- 1-70	
No. 92-A	10-12-70	.....do.		10-20-70
REROUTING ORDER NUMBERS				
Amended: 12*	9-30-70	New York, Susquehanna and Western Railroad unable to transport traffic between Sparta and Stockholm, N.J., because of bridge out of service.	12-31-70	
12	12-31-71	.....do.	3-31-71	
12	3-31-71	.....do.	6-30-71	
13	6-30-71	.....do.	12-31-71	
16*	9-30-70	Penn Central unable to transport traffic over its line between Chester, W.Va., and Josephstown, Penna., because of track damage.	12-31-70	
16	12-31-70	.....do.	3-31-71	
16	3-31-71	.....do.	9-31-71	
19*	12-31-70	Louisville and Nashville Railroad and the Birmingham Southern Railroad unable to transport certain carload traffic, loaded to excessive dimensions, over their lines in the vicinity of Bessemer, Ala. due to restricted clearances at their normal interchange points.	6-30-71	
26*	9-30-70	Atchison, Topeka and Santa Fe Railway unable to transport traffic on its line between Eskridge and Alma, Kan., because of track damage from vooding.	12-31-70	
26	12-31-71	.....do.	3-31-71	
26	3-31-71	.....do.	6-30-71	
26	6-30-71	.....do.	9-30-71	
39*	7-31-70	Chicago and North Western Railway unable to transport traffic on its line between Nora and Cadams, Nebraska, because of bridge damage.	10-31-70	
39	10-31-70	.....do.	12-31-70	
39	12-31-70	.....do.	3-31-71	
39	3-31-71	.....do.	9-30-71	
ended: 43*	8-31-70	Frankfort and Cincinnati Railroad unable to transport traffic over its line between Elsinore and Georgetown, Ky., because of unsafe track and roadbed.	10-31-71	
43	10-31-70	.....do.	12-31-70	
43	12-31-70	.....do.	3-31-71	
43	3-31-71	.....do.	6-30-71	
47*	7-31-70	Chicago, Rock Island and Pacific Railroad	10-31-70	

**SERVICE ORDERS, DISTRIBUTION DIRECTIVES, REROUTING ORDERS, AND EMBARGOES—
FISCAL YEAR—1971—Continued**

SERVICE ORDER NUMBERS:	Date effective	Purpose	Date of expiration	Date vacated
		Co. unable to transport araffic over its line between Rock Rapids, Iowa, and Sioux Falls, South Dakota, because of track damage caused by floods and high water.		
47	10-31-70	.....do.	12-31-70	
47	12-31-70	.....do.	3-31-71	
47	3-31-71	.....do.	6-30-71	
47	6-30-71	.....do.	12-31-71	
48	7- 7-70	Various railroads unable to transport traffic over their lines because of work stoppage by employees.	7-17-70	
48-A	7- 7-70			
49	9-29-70	Penn Central unable to transport traffic over its line between Ogdenbury, and Prescott, Ontario, Canada, because of damage, caused by fire, to its ferry slip at Ogdensburg, N.Y.	12-31-70	
Amended:				
49	12-31-70	.....do.	3-31-71	
49	3-31-71	.....do.	9-30-71	
50	10-28-70	Sabine River & Northern Railway unable to interchange traffic with the Atchison, Topeka and Santa Fe Railway at Bessmay, Tex., the Kansas City Southern Railway at Lemonville, Tex., and the Missouri Pacific Railroad at Mauriceville, Tex., because of excessive rains and track damage.	11-15-70	
51	2- 9-71	Grand Trunk Western Railroad unable to transport traffic over its car ferry between Milwaukee, Wis. and Muskegon, Mich. because of ice conditions in Lake Michigan.	2-28-71	
51-A	2- 9-71	.....do.		2-17-71
52	2-13-71	Chesapeake and Ohio Railway unable to transport traffic over its car ferry between Milwaukee, Wis. and Ludington, Mich., because of a transfer bridge at at Milwaukee being inoperable.	2-28-71	
Amended:				
52	2-28-71	.....do.	3-31-71	
52	3-31-71	.....do.	4-15-71	
53	2-26-71	St. Louis-San Francisco Railway unable to transport traffic over its line between East Aberdeen and Aberdeen, Miss., because of high water.	3-15-71	
54	3- 1-70	Grand Trunk Western Railroad unable to transport traffic over its car ferry between Milwaukee, Wis., and Muskegon, Mich. because of ice conditions in Lake Michigan.	3-15-71	
54-A	3- 1-71	.....do.		3- 2-71
55	3-24-71	Central Railroad Company of New Jersey (R.D. Timpany, Trustee), unable to effect delivery of traffic at its facilities at Pier 18, Jersey City, on account of coal dumper out of service.	4-23-71	
Amended:				
55	4-23-71	.....do.	6-30-71	
56	5-31-71	Penn Central, unable to interchange traffic with the Soo Line Railroad at Mackinaw City, Mich., because of car ferry out of service.	6-30-71	
Amended:				
56	6-30-71	.....do.	7-31-71	
57	6- 2-71	Penn Central unable to transport traffic over its line between Plymouth and South Bend, Ind., because of track and bridge damage.	6-30-71	
Amended:				
57	6-30-71	.....do.	7-31-71	

Embargo Directive Nos.	Date Issued	Commodity	Destination	Consigned or Reconsigned or Intended For	Cause	Excep- tion	Canceled
No. 3	8-20-70	Grain or Soybeans	Seattle, Wash.	Cargill, Inc.	Accumulation & car delay	None	
No. 3—Modified	8-25-70	to authorize Burlington Northern to accept total of 100 carloads of spring wheat consigned to Cargill, Seattle—expires 8-26-70					
No. 3—Amended	8-31-70	to include Portland, Oreg.—Exceptions: barley, corn, milo.					
No. 3—Amended	9- 3-70	to eliminate Seattle, Wash.					
No. 3—Cancel- lation	9-29-70	embargo at	Portland, Oreg.	Cargill, Inc.			
No. 4	9-25-70	Grain and Soybeans	Seattle, Wash.	Cargill, Inc.	Accumulation & car delay	None	10-15-70
No. 5	11-24-70	Grain and Soybeans	Philadelphia, Pa.	Tidewater Grain Co.	Accumulation & car delay	None	12- 2-70
No. 6	11-27-70	Grain or Soybeans	Kansas City, Mo.	All consignees	Strike of Grain Samplers	None	11-30-70
No. 7	1-22-71	Coal	Ashtabula or Ashtabula Harbour, Ohio	Penn Central	Accumulation	None	3- 1-71
No. 8	2- 1-71	Coal	Conneaut, Ohio	Unloading over coal dumping facilities of Bessemer & Lake Erie Railroad	Accumulation & car delay	None	2-16-71
No. 9	3-10-71	Baled Cotton		Burlington Cotton Co. Division of Burlington Industries (Served by Southern Railway)	Accumulation & car delay	None	4- 1-71

Abandonments.—The railroad industry finally has concluded that it has extensive excess trackage. The 241 applications to abandon trackage which were filed with the Commission this year were double the number in fiscal 1970. The Commission at times is branded a regulatory villain, whether it grants or denies a proposal for reduction of trackage.

It must be remembered that the presentation of an abandonment proposal under section 1(18) lies wholly with the carrier; that the Commission has a Congressional mandate to determine whether the public convenience and necessity permit the abandonment; and that due process of law applies in the proceedings. The guideline for abandonment cases, "public convenience and necessity," involves a complexity of considerations. While investigating the public's reliance on a particular line, the Commission must at the same time appraise the carrier's burden of operating deficits and the consequence of these losses on the entire rail system.

We recognize that the problem of excessive rail lines requires a major reevaluation by the railroads themselves, and others, as to what rail services are needed. Even some section of mainline trackage may have to be abandoned in order to achieve an efficient system, and new

legislation may be required for the handling of large-scale abandonment cases. Enactment of legislation to change abandonment procedures or criteria must be preceded by an opportunity for all viewpoints to be expressed. Strong views that must be considered will develop from the plight of farmers and industries that invested capital upon the reliance of continued rail service.

Pending new guidance in law from the Congress, we have taken a number of steps to prevent a regulatory lag in handling the expected flow of abandonment requests. Modifications in the processing of abandonment proceedings have been adopted. These modifications consolidated the old application and "return to questionnaire" into a single application containing all necessary information. This revision, including the elimination of duplicated or unnecessary data, should result in a substantial reduction of processing time by both the railroads and the Commission. Regulations governing the filing of these applications have been amended so that the carrier now is required to submit a proposed notice of the abandonment for publication in local newspapers, thereby assuring that the public is made aware of the carrier's proposals in full and is in a better position to judge which particular abandonments should be protested. In addition, modified procedure that speeds processing by avoiding the need for oral hearings is being used more frequently in contested abandonment proceedings.

As anticipated, there have been in the past year abandonment applications involving parts of systems on a multi-stage basis. Noteworthy are the proposals of the Penn Central, The Central of New Jersey, and the Missouri-Kansas-Texas railroads to substantially reduce their trackage. These applications involve "regionalized" abandonments as against the traditional piecemeal proposals.

Hearings have been held and examiners' reports are awaited in two railroad abandonments involving railroad ferry services. One, by the Mackinac Transportation Company, follows an earlier denial of a proposal to end rail transportation across the Mackinac Straits between northern and southern Michigan. The other is the Chesapeake & Ohio's attempt to terminate rail service across Lake Michigan.

Work Stoppages.—There were two nationwide rail work stoppages during the fiscal year. Fortunately, the curtailments that began December 10, 1970, and May 17, 1971, were of short duration, and the Commission's planned program for assisting the shipping public was only briefly activated for each stoppage.

Certificates of convenience and necessity issued for abandonment, construction, acquisition and operation of lines of railroad under sec. 1(18) of the Interstate Commerce Act, as amended.

	July 1, 1969 through June 30, 1970		July 1, 1970 through June 30, 1971	
	Applications	Miles	Applications	Miles
I. Abandonment applications filed	104	1,762.0	241	3,142.3
Certificates of abandonment:				
Granted	82	1,782.0	129	1,286.6
Denied	2	64.9	3	39.5
Dismissed	19	210.4	6	20.6
Abandonments permitted since effective date of act	—	58,587.4	—	61,729.7
II. Construction applications filed	11	70.2	13	669.5
Granted	5	37.0	12	616.9
Denied	—	—	—	—
Dismissed	2	18.4	—	—
III. Acquisition and operation applications filed	10	152.7	12	186.2
Granted	9	65.2	13	152.7
Denied	—	—	—	—
Dismissed	—	—	—	—

The Commission has no involvement in the confrontations between labor and management that too frequently are leading to wide-ranging tie-ups of transportation services. The agency, however, does have a responsibility to assure that the public receives fair and efficient use of the regulated carriers that remain in operation during a cessation of transportation—whether it results from labor-management, natural, or other causes.

The Commission's emergency action program has been refined to the point where it is virtually self-activating. Depending upon the severity of the situation a variety of measures are instituted. Special orders are issued that facilitate prompt granting of emergency temporary authority for alternative transportation to help meet defense, health and welfare needs. Field offices are ordered to assist the public in obtaining substitute transportation. These offices also provide an on-the-scene monitoring network, feeding to our headquarters timely summary data of local and regional transport performance vs. requirements. This information is then made available to other concerned agencies of Government. Carriers can be ordered to adhere to a strict listing of priorities for movement of critically needed commodities. Railroad rerouting and car service orders are issued to improve utilization of the Nation's railroad plant. Each of these actions was instituted to some degree during the two major work stoppages that curtailed railroad operations in fiscal 1971.

Service (Motor Carriers)

In Ex Parte No. MC-80, *Maintenance of Service Request Records by Motor Common Carriers of Property*, we instituted a rulemaking proceeding to further our program of giving practical effect to section 216 (b) of the act. That section imposes on carriers the responsibility to provide adequate service, equipment, and facilities. The proceeding also is intended to implement the condition contained in all common carrier certificates of public convenience and necessity which requires them to render reasonable, continuous, and adequate service. We have received shipper complaints that some carriers fail to provide service equally and fairly. These have come for the most part from shippers of small, light, or bulky articles. The Ex Parte No. MC-80 proceeding is another step in our continuing efforts to deal with all aspects of the provision of quality service and the small shipments problem in particular.

Small Shipments.—Small shipments were at issue in *Restrictions on Service of Motor Common Carriers*, 111 MCC 151. The motor carriers of property involved were required to conform their published tariffs to provide for service coextensive with the full scope of their operating certificates and their basic obligations to the public. The proceeding was directed to the shrinkage in fundamental common carrier obligations by the publication of limitations on service in the tariffs of motor carriers. The motor carriers argued that limiting the participation of carriers in the proceeding to them was unfair because other modes were left free to publish service limitations to their tariffs. We ruled upon this contention by pointing out that, while service limitations by other modes may exist, motor carriers are particularly well-suited to the transportation of small shipments and that to permit them to be selective in the rendition of their services would be tantamount to our condoning discriminatory and prejudicial treatment of shippers. Such a result would frustrate the very purposes for which economic regulation was intended.

Despite persistent small shipment problems, Commission studies indicate continued growth in the volume of this traffic, with a tonnage expansion of 26 percent during the decade of the sixties. Some 100 million tons of small shipments are now moved annually, with ICC regulated motor carriers handling about 86 percent of this traffic.

The Commission's active program to reduce the number of difficulties encountered in the movement of small shipment traffic has resulted in a significant decline in complaints processed by our field offices. In

fiscal 1971, the number of complaints dropped 42 percent from the level reached in 1969.

The reduced amount of collect-on-delivery and freight-collect services made available to the public by motor carriers is under investigation in Ex Parte No. 272, *Investigation into Limitations of Carrier Service on C.O.D. And Freight-Collect Shipments*.

Piggyback (TOFC).—Railroads and trucks faced a decline in TOFC (trailer-on-flatcar) or piggyback traffic in calendar 1970, but water carriers had a healthy gain. Railroads reported a 7.4-percent drop and motor carriers posted a 21-percent decline, in contrast to an 18.6-percent increase by water carriers.

For the first time plan II-1/2 represented the largest portion (37 percent in 1970) of total units terminated. The remaining traffic was accounted for by plan I—10 percent; plan II—35 percent; plan III—5 percent; plan IV—9 percent; and plan V—3 percent.¹

Containerization.—While generally remaining on a plateau in domestic service, the use of containers continues to increase in international commerce. Well over 300,000 containers and 300 containerships are now employed in international trade. By 1975 the number of international containers is expected to more than double.

As a result of this continued expansion a new generation of containerships has been entering service throughout the world. Super-efficient and fast, the new ships are a far cry from those which pioneered the containerization concept some 15 years ago. The original 16-knot World War II tankers which carried some 20 wheeled trailers have given ground to newer vessels, capable of carrying one thousand 20-foot boxes at speeds of better than 23 knots. Still other generations of containerships are being developed by naval architects and engineers. Japanese designers, for instance, have on the drawing boards a 950-foot ship with the capacity to carry 3,000 containers.

While the conventional container has become prominent along the East and West coasts, there has been a reluctance to jump wholeheartedly into the new shipping concept along the Gulf. Just as the

¹ Plan I is rail movement of motor carrier trailers or containers, with motor carrier rates or billing; plan II is complete railroad door-to-door service; plan II-1/2 varies from plan II in that the railroad supplies the trailer or container but the shipper performs the service to and from rail terminals (including either or both such services); plan III is ramp-to-ramp rail movement of trailers or containers owned or leased by freight forwarders or shippers; plan IV is ramp-to-ramp movement of cars as well as trailers or containers provided by freight forwarders or shippers; and plan V is coordinated motor-rail service with either mode billing the traffic.

container movement began gaining momentum in the Gulf area, the sea-going barge concept, offering an international interior country to interior country service, appeared on the scene almost overnight. This development has resulted in uncertainty over whether the container in box form, or the sea-going barge, a container in another form, is going to be chosen for the Gulf and mid-western shippers.

OPERATING RIGHTS (PROPERTY)

Control of carriers' entry into the for-hire transportation market through the granting of operating authorities represents the outlay of a majority of the Commission's resources that are devoted to the processing and adjudication of formal cases. This licensing responsibility amounts to some 80 percent of our caseload. Nearly two-thirds of the attorneys in our Office of Proceedings are assigned to this function. While most of these cases concern issues involving rights for trucking, this operating authority area also embraces movements of property involving water carriers and freight forwarders, each of which will be discussed in this chapter.

Intermodal

In an age of expanded availability of air service, there is an ever growing need for intermodal air-surface operations. We noted last year that air freight transportation will increase greatly, that the issuance of authorities in this specialized field of motor carriage has lagged somewhat behind demand, and that there is a need for additional service (*Murphy Surf-Air Trucking Co., Inc., Ext.—Kentucky*, 111 MCC 570).

We were presented for the first time with applications by air freight forwarders for nationwide authority to perform surface forwarding service in support of their air forwarding activities (*Emery Air Freight Corp. Freight Forwarder Applic.* 339 ICC 17). The applications were granted because the specialized air and surface forwarding services proposed were materially different from the separate services of existing forwarders and carriers. The new coordinated intermodal service provides single carrier responsibility. This will facilitate the tracing of shipments, the servicing of claims, billing, expediting shipments, and quoting of rates.

In our consideration of air terminal areas, we have generally de-

ferred to the findings of the CAB, but this year we found it necessary to exercise reserved statutory jurisdiction in order to promulgate further guidelines [49 CFR 1047 .40(c)]. We concluded that if the physical motor service in question is (a) that of collection and distribution and (b) performed within the limits of a terminal area, it may be considered a bona fide pickup and delivery service. However, if the service is performed beyond the air terminal area limits, then it is considered line-haul or peddle service.

In *Motor Transp. of Property Incidental to Air*, 112 MCC 1, we concluded that transportation performed beyond the 25-mile "rule of thumb" radius is not transportation by motor vehicle "incidental" to transportation by aircraft within the meaning of section 203(b)(7a) of the act, unless such service takes place within a reasonable terminal area generally delineated by considerations of community homogeneity.

In *Morgan Express, Inc., Extension - Amarillo, Tex.*, 111 MCC 784, we noted that Morgan has been serving the area covered by its application since 1941 in the carriage of air freight from and to the airports serving Dallas, Fort Worth, Amarillo, and Wichita Falls; that Morgan's participation in such traffic has steadily increased; and that its noncertificated activities have evolved in large measure from those which it is authorized to perform with regard to the transportation of express. We found that Morgan's ex-air-motor operations—although including transportation conducted without an appropriate franchise—developed in response to a public demand. We concluded that none of the general freight protestants had specialized in the handling of air traffic, and that the evidence demonstrated a need for the services of an additional motor carrier devoting its prime energies to the surface movements of air freight.

An applicant sought authority to transport general commodities, with the usual exceptions, between 14 cities in the eastern half of the United States, restricted (1) to the transportation of shipments having either an origin or destination at a terminal of Trans-World Airlines, Inc., and (2) to shipments having an immediately prior or subsequent movement by air (*Hill Trucking Co. Ext.—Jumbo Jets*, 111 MCC 742). The evidence indicated the proposed service would be necessary only in emergency situations, such as the forced landing of a jumbo jet due to adverse weather conditions or equipment failure. We found that such operations are exempt as incidental to transportation by aircraft [49 CFR 1047 .40(b)].

In *Fourmen Delivery Service, Inc.—Declaratory Order*, 112 MCC

866, we were requested to determine whether we have jurisdiction over the for-hire motor carrier transportation of baggage originally intended to accompany an airline passenger between points in New York, when such baggage has had an immediately prior movement by air from points outside the state.

We found that the surface transportation of baggage and other personal property usually carried by airline passengers is governed by the rules and regulations pertaining to the transportation of passengers, and not those concerning the transportation of property incidental to air transportation. We concluded that because the airline intends to return the luggage to the passenger at the destination airport, the baggage does not move on a through bill of lading from the origin airport to the passenger's ultimate destination. Rather, the baggage comes to rest at the destination airport at which time the interstate movement, if any, of such baggage is completed. If the baggage to be returned to the passenger on arrival at the destination airport is delayed or misplaced, and arrives after the passenger has departed, then the consignment to a motor carrier to transport the baggage to the passenger's abode in the same state as the destination airport (without traversing a second state) is intrastate commerce and not within the purview of the Interstate Commerce Act.

Motor Carriers

Adequacy of Existing Service.—The adjudication of operating rights issues has always been controversial. Some critics contend that the Commission's operating rights policies have resulted in a stifling of competition and a reduction in the amount of service available to the public. Other critics take the opposite view that too much competition now exists, leading to an overcapacity that produces a costly inefficiency. We believe that our interpretation of regulatory law assures that the public interest has the benefit of decisions that follow a finely balanced line between these two extremes. Clearly, the adequacy of existing service must be carefully examined in any contested motor common carrier application. The weight which is accorded this factor, however, depends upon the particular fact situation.

In *Inco Express, Inc., Ext.*—*Five Western States*, 111 MCC 877, we reaffirmed our policy that the need to maintain high quality service in the movement of perishable commodities warrants a closer than usual scrutiny of existing transportation facilities. Several shippers had demon-

strated a need for prompt, reliable service in the carriage of such items as meats, refrigerated and frozen foods, and dairy products. Existing carriers had rendered reasonably satisfactory service but with several instances of commodity spoilage resulting from transfer of lading and delays in shipment. On balance we found that the need for insuring high quality service in this field of operation required the issuance of the requested authority.

On the other hand, in *Floyd & Beasley Transfer Co., Inc., Extension*, 112 MCC 124, shippers had experienced delays instead of immediate provision of vehicles when demanded. They charged that existing carriers were not providing a satisfactory service. We concluded that the reasons why a carrier is unable to meet the shipper's standards must be considered when assessing an operation. Where unreasonable demands are placed upon a carrier the shippers must be held primarily responsible for their transportation difficulties. We continued to hold that, irrespective of the quality of available service, a reasonable likelihood that additional motor carrier service will be used is a prerequisite to a grant of common carrier authority (*Central Transport, Inc., Extension—Barite*, 112 MCC 410).

Certificates.—Our authority to grant operating rights to carriers is recognizably broad, but our power to revoke or modify outstanding certificates, permits, or licenses, is strictly limited. Were this not true, such operating rights would be of doubtful integrity, and any attempt to implement the stable, efficient, and economical surface transport system envisioned by our mandate from the Congress would be frustrated. There are certain limited circumstances, though, when the modification of effective authorities is plainly within our authority. The issue in *Curtis, Inc., Extension—Meats Over Irregular Routes*, 113 MCC 170, represented such a situation. There, a motor common carrier had received a certificate containing in addition to the authority sought, substantial implied authority to provide via tacking with its other rights, a through service from and to points not named in the application. Such authority was granted after a number of protesting carriers withdrew their opposition based on the inadvertent implied misrepresentations of applicant's counsel that no such tacking opportunities existed. The need to secure a just result in administrative proceedings was found to require the entry of an order directing the carrier to show cause why the certificate in question should not be modified by insertion of an appropriate no-tacking restriction.

Motor Contract Carriers.—Various aspects of contract carrier op-

erations were clarified this year. We instituted a rulemaking proceeding to reconsider our 32-year old position concerning the criteria for entering into contracts with contract carriers (Ex Parte No. MC-83, *In the Matter of Administrative Ruling No. 76*).

In a generally related matter we found that in order for a broker to have sufficient status to support a contract carrier application, the broker must prove (1) that he has some overriding interest in the traffic for a purpose other than the mere providing, selling, arranging, or offering of a transportation service, or (2) that he is engaged exclusively as agent for a limited number of specified shippers, and as such cannot be said to be involved with the traffic of the general public (*Jensen Contract Carrier Extension—Foodstuffs*, 113 MCC 205).

Because the requirement that a contract carrier serve a "limited number of shippers" is a relative concept with no particular significance unless compared to an overall operation, factors to be considered in this regard were enunciated in *C & R Trucking Co., Ext.—Winslow, N.J.*, 112 MCC 336. We further determined that a carrier does not have to use the specific language set forth in the statute in order for there to be a finding that it will assign its vehicles for a continuing period of time to the exclusive use of each person served (*Interstate Distributor Co., Contr. Car. Applic.*, 111 MCC 746).

Although we are generally liberal with respect to the granting of contract carrier applications, some have been denied where applicant and shipper failed to describe in detail just how, where, and to what extent the proposed service would be used, thus failing to provide a sound basis for concluding that a shipper has a specialized or distinct need for which an applicant's operation is better tailored than the service of protestants (*Midwestern Express, Inc., Contract Carrier Applic.*, 112 MCC 624).

Commercial Zones and Terminal Areas.—A large number of petitions seeking expansion of commercial zones was filed during the year. These zone extension requests were premised basically upon expanding urbanization, upon continuing development of the Interstate Highway System which provides better access to large urban centers, and upon the unavailability of suitable parcels of land for industrialization in the immediate environs of large cities.

The Albuquerque, N. Mex., commercial zone was extended northward to include the Rio Rancho Estates Industrial Park. The Kansas City, Mo.—Kansas City, Kans., commercial zone was extended to include specified portions of Olathe, Kans. The Seattle, Wash., com-

mercial zone was extended to the north to include Paine Field and to the south to include Auburn, Wash. We also found that Tacoma, Wash., is an independent political and economic entity, and not commercially dependent upon or interrelated with Seattle (*Seattle-Tacoma, Wash. Commercial Zone*, 111 MCC 718).

The New York, N.Y., exempt zone (that portion of the New York commercial zone within which wholly local operations may be performed pursuant to section 203(b)(8) of the act) was extended to include a piggyback yard of the Reading Company, in order to achieve competitive parity between that railroad and other railroads, whose piggyback yards already were in the exempt zone.

A complaint was filed charging a motor carrier with operating in interstate or foreign commerce from and to Franklin and Springfield, Tenn., without appropriate operating authority. The defendant held a certificate authorizing a general commodity operation from and to points within 10 miles of Nashville. The defendant contended that the legal characteristics of Nashville had been changed so that its physical boundaries became coextensive with those of Davidson County, Tenn., comprising an entity known as the Metropolitan Government of Nashville and Davidson County, Tenn. (Metro), with the former city limits of Nashville known as the "Urban Service District of Metro" (*Hayes Lines, Inc. v. Gateway Transportation Co., Inc.*, 111 MCC 778). We recognized the existence of Metro, and decided to forego a determination of its legal status and defendant's operating rights, because of the interrelationship of these issues with the collateral issue of the extent of any commercial zone which may exist with respect to Metro. Determining such issues to be of general import, we instituted rulemaking proceedings in Ex Parte No. MC-81 *Interpretation of Operating Authorities—Nashville and Davidson County, Tenn.*, and Ex Parte No. MC-37 (Sub No. 4A), *Commercial Zones and Terminal Areas (Metropolitan Government of Nashville and Davidson County, Tenn., Commercial Zone)*.

The evidence adduced through these rulemaking proceedings, reported in *Interpretation of Operating Authorities*, 112 MCC 829, led us to recognize that the City of Nashville and the County of Davidson, Tenn., have been combined into a new form of government—the Metropolitan Government of Nashville and Davidson County, Tenn. (Metro). Metro was found to be a municipality for the purposes of section 203(b)(8) and its commercial zone was specifically defined as follows: (a) the municipality of Metro itself, and (b) all or any

municipality wholly surrounded, or so surrounded except for a water boundary, by Metro.

In *M & M Transportation Company Interpretation*, 112 MCC 746, we were confronted with a petitioner holding authority to perform regular-route operations between Boston and Philadelphia over U.S. Highways 1 and 9, serving numerous intermediate and off-route points, including those off-route points on Long Island on the west of New York Highway 110. The highway bisects the contiguous Suffolk County towns of Babylon and Huntington, and petitioner maintained that the entireties of these towns, and their commercial zones, may be served as off-route points. We examined in detail the characteristics of Babylon and Huntington, and determined that they are, in fact, New England-type towns, thus not municipalities within the meaning of section 203(b)(8) of the Interstate Commerce Act. We concluded that, with respect to petitioner's authority to serve off-route points on and west of the designated highway, such authority is both specific (points on the highway) and territorial (points west of the highway). The only "points" found to be on the highway were one incorporated municipality, and two unincorporated municipalities having post offices of the same name. As to these, we found service to the entireties of the "points" and terminal areas permissible. As to the remaining areas traversed by the designated highway, only service to those areas actually on and west of the highway would be proper.

Exempt Operations.—In our 83rd report (1969), we described an amendment to section 203(b)(5) of the act [49 U.S.C. section 303(b)(5)] to revise and clarify the exemptions from economic regulation accorded motor vehicles controlled and operated by agricultural cooperative associations or federations, and cases implementing the new amendment. This amendment and the cases following it were aimed at providing workable guidelines in the resolution of what has been a persistent and difficult regulatory problem.

In *Florida Growers Cooperative Transp.—Investigation*, 112 MCC 138, we again were faced with this problem. Here it was necessary to consider the question of whether certain "back-to-back"¹ movements

¹ The "back-to-back" movements were as follows: (1) outbound nonmember traffic was transported, followed immediately by another movement of nonmember traffic (a) in the reverse direction, and (b) in a direction away from any member traffic source; and (2) from the destination of member traffic, nonmember traffic was transported in a direction away from any additional member traffic source, followed immediately by another movement of nonmember traffic in the direction of member traffic source.

of nonmember traffic constituted traffic incidental to the agricultural cooperatives' primary transportation operation (i.e., on behalf of its members) and necessary for its effective performance. Elaborating upon the meaning of the recent amendment, it was stated that to be incidental to and necessary for the effective performance of the primary farm service of the cooperative, the carriage must be rendered so as to equalize or prevent an economic loss which would have resulted from an otherwise empty movement of a vehicle employed on a prior or subsequent trip in connection with member business.

Two formal petitions filed by the shipping public resulted in further specific definitions of commodities falling within the agricultural commodity exemption of section 203(b)(6) of the act. That section excludes from the licensing and rate requirements of part II of the act:

"... motor vehicles used in carrying property consisting of ... agricultural (including horticultural) commodities (not including manufactured products thereof), if such motor vehicles are not used in carrying any other property, or passengers, for compensation: *Provided*, that the words '... agricultural (including horticultural) commodities (not including manufactured products thereof)' as used herein shall include property shown as 'Exempt' in the 'Commodity List' incorporated in ruling numbered 107, March 19, 1958, Bureau of Motor Carriers, Interstate Commerce Commission, but shall not include property shown therein as 'Not Exempt': ...

In *Determination of Commodity Status—Petition*, 113 MCC 6, we examined the transportation status of certain wood commodities² under section 203(b)(6) in light of (1) the "continuing substantial identity" test promulgated by the Supreme Court in *East Texas Lines v. Frozen Food Express*, 351 U.S. 49 (1956), and (2) the amendment to section 203(b)(6) enacted in the Transportation Act of 1958. We first noted that Administrative Ruling No. 107 had been incorporated by reference into section 203(b)(6) by the enactment of the 1958 act. In doing so, we further noted that Congress had specifically determined that "bark" is exempt, whereas "sawdust, from lumber mills" and "wood chips for making woodpulp" are not exempt. With respect to the remaining commodities, we attempted to avoid impossible distinctions which might have resulted from the strict application of the "continuing substantial identity" test.

² The commodities considered were (a) trimmings from logs and bolts, and (b) bark, sawdust, and shavings produced as an incident to, and waste product of, the sawing, planing, and finishing of wood products.

We concluded that there was a plain congressional intent to subject the motor vehicle transportation of "sawdust" and "wood chips" commodities to full economic regulation by the reference to Administrative Ruling No. 107 into section 203(b)(6). Thus, all sawdust, wood shavings, and trimmings, regardless of (1) their place of production, (2) the process by which they are created as byproducts, or (3) their ultimate use, must be considered to be manufactured products of agricultural commodities and not within the partial exemption of section 203(b)(6).

Whereas clear congressional intent resulted in the conclusions in the *Determination* case, in *Exempt Status of Precooked and Cooked Poultry*, 113 MCC 225, we decided the transportation status of (1) cut-up, precooked or cooked, frozen or refrigerated poultry, (2) cut-up, precooked or cooked breaded and/or battered, frozen or refrigerated poultry, and (3) cut-up, precooked or cooked, marinated, breaded and/or battered, frozen or refrigerated poultry, upon the basis of a pure application of the "continuing substantial identity" test. After considering the processing through which the involved poultry commodities must go, we concluded that what remains after such processing is no longer raw poultry, such as that which is normally considered to be an agricultural (or farmer-related) commodity. Rather, such poultry has been processed far beyond mere marketability and made into a new commodity for sale to the public as a "prepared food" or manufactured product of an agricultural commodity. It is, therefore, not within the partial exemption of section 203(b)(6).

Private vs. For-Hire—Ontario Company—Declaratory Order, 112 MCC 211, involved the issue of whether operations performed with leased equipment by a shipper who secures the driver as well as the vehicle from the same lessor constitute for-hire or private carriage. Applying the "control" and "characteristic burdens of transportation" tests enunciated by the Supreme Court in *United States v. Drum*, 368 U.S. 270 (1962), we determined this transportation constituted a private carriage operation since the shipper-lessee was shown to have the exclusive right and privilege of directing and controlling the involved transportation, as well as having assumed its characteristic burdens.

Unauthorized Motor Carrier Operations.—The issue of unauthorized or unlawful operations arises in several types of proceedings, including (1) application proceedings in which a determination must be made as to whether a motor carrier applicant is fit, willing, and able properly to perform the proposed service, and (2) complaint or investigation

proceedings wherein determinations are made as to the existence of unlawful operations, and, if any, whether a cease and desist order should be entered and the carrier's certificates revoked.

The question of motor carrier fitness in application proceedings is generally decided on a case-by-case basis. A balancing process is applied in which we weigh the various factors of unlawful operations against any mitigating circumstances. During the past year, several motor carrier applicants were found not to have shown themselves to be fit to perform their proposed operations. The unlawful operations generally were performed over substantial periods. They indicated continuing disdain for transportation regulation, with no mitigating circumstances. These operations included—

(1) Providing transportation services beyond the scope of the applicant's operating authority pursuant to a purported lease and interchange arrangement (*Ritter Trucking Co., Inc., Extension*, 111 MCC 771);

(2) Providing for-hire transportation of property by the leasing of motor vehicle equipment and drivers to private shippers without appropriate authority (*International Carriers, Inc., Contr. Car. Applic.*, 112 MCC 195);

(3) Providing passenger transportation by taxicab in interstate commerce for a continuing period despite repeated warnings that such carriage required appropriate operating authority (*Terminal Taxi Co., Inc., Common Carrier Applic.*, 112 MCC 796); and

(4) Providing for-hire motor carrier services by the use of the operating rights of a certificated carrier without our prior approval of a lease of such operating rights, and actually performing this service under the subterfuge of a lease of equipment to the certificated carrier (*Hatcher Pickup & Delivery Services, Inc. Extension*, 112 MCC 706).

It should be emphasized that negative fitness findings are not intended as punishment for past unauthorized operations. The findings are merely the result of a determination of an applicant's present ability to perform and its attitude towards compliance with the act and our rules and regulations. Our general policy is aimed at assuring future lawful operations by such carriers.

In several other proceedings mitigating circumstances were found to abrogate, at least partially, serious unlawful operations by motor carrier applicants. One approach was applied in *Distributors Service Co. Extension—Foods*, 113 MCC 129. Although substantial unlawful operations led us to a negative fitness finding, there was an indication

that applicant's operations were performed in good faith and that such operations were ended upon the carrier's knowledge of their unlawfulness. We reopened the proceeding for further oral hearing solely on the issue of the carrier's fitness.

A somewhat different approach was utilized in several other proceedings¹ in which the record sufficiently demonstrated mitigating factors that indicated a sincere effort at correction. Such efforts were demonstrative of the carrier's willingness to comport in the future with the governing rules and regulations. In each instance, we felt that the seriousness of the past unlawful conduct barred the issuance of an unlimited certificate. Certificates authorized in each proceeding² were limited to 3-year terms.

In one proceeding, handled under this approach, dealing with the issue of the legality of the carrier's operations, we finally determined the issue of the carrier's fitness after 13 years of litigation in the Commission and the Federal courts (*Pre-Fab Transit Co., Ext.—International Falls*, 112 MCC 664).

In *Gleason Transportation Co., Inc., Revocation*, 112 MCC 228, we considered the proper procedure to be applied in a revocation proceeding. We determined that the order instituting an investigation proceeding contemplates a two-stage proceeding—the first stage to be confined to a determination of whether respondent is, or is not, conducting lawful operations. If violations or noncompliance, willful or otherwise, are found to exist, we must determine whether to enter a cease and desist order. This determination is made upon the sole consideration of whether respondent is likely to or is in a position to resume or continue unlawful operations. If a cease and desist order is entered and the carrier continues its unlawful activities, the second stage of the revocation proceeding is begun. This involves entry of another order instituting a proceeding under section 212(a) of the act to determine whether certificates should be revoked for *willful* failure of the carrier to comply. In *Gleason*, a cease and desist order

¹ *Spector Freight System, Inc., Extension—Whitley*, 111 MCC 889; *Johnny Brown's Inc., Extension—Winchester, Va.*, 111 MCC 905; *Pre-Fab Transit Co., Ext.—International Falls*, 112 MCC 664; and *Radke Extension—Various Commodities*, 113 MCC 89.

² Certificates authorized to be issued in all other pending proceedings of two of the applicants, *Johnny Brown's, Inc.*, and *Pre-Fab Transit Co.*, were also required to be 3-year term certificates.

was entered.³

In *Pennsylvania P.U.C. v. Arrow Carrier Corp.*, 113 MCC 213, Arrow's use of a terminal at Pennsauken, N.J., for the routing of traffic originating at and destined to points in Pennsylvania was found to be reasonable, in good faith, and not a subterfuge aimed at rendering Pennsylvania intrastate traffic into interstate traffic subject to federal economic regulation. Upon this determination, we dismissed the complaint.

These decisions are by no means all of the proceedings involving performance of unlawful operations or the investigation of possible unlawful operations. They are indicative, however, of the scrutiny to which motor carrier operations are put by this Commission.

Violation of State Law.—Of the many issues which must be determined in motor carrier application proceedings the ones often receiving the most attention are those dealing with both the need for the proposed operation and the extent to which existing carriers are meeting this need. An integral part of every such proceeding involves the question of whether the proposed operation will serve "a useful public purpose." This issue, while not squarely presented for determination in application proceedings generally, underlies every application for motor common carrier authority and indirectly at least is considered in every proceeding. In *Transcontinental Haulers, Inc., Com. Car. Applic.*, 112 MCC 535, this matter became the central issue when a proposal to transport unusually large boats would in many instances have been in violation of the size limitations set by the highway laws of several states. Permits were occasionally issued for such loads but to that extent existing carriers were capable of handling this traffic. We were unable to find that the remainder of the proposed operation, which could function only in contravention of state laws, could be deemed to further a useful public purpose and denied the application in its entirety.

Freight Forwarders

In Ex Parte No. 266, *Investigation into the Status of Freight Forwarders*, 339 ICC 711, we undertook a detailed and comprehensive analysis of an entire sector of the transportation industry. Replying to a

³ In another investigation proceeding, *Eagle Trucking Co.—Investigation of Operation*, 113 MCC 148, after an interpretation of a commodity description in respondent's certificate, we found certain of respondent's operations performed under that certificate to be beyond its scope. A cease and desist order was entered.

request from Congress for our opinion, we recommended adoption of legislation that would enable forwarders to enter into contracts with railroads. As a direct result of our findings in that proceeding, another rulemaking proceeding was instituted to determine whether terminal areas within which freight forwarders may perform pickup, delivery, and transfer services, should be extended (*Investigation into the Scope of Freight Forwarder Terminal Areas*, Ex Parte No. 266 Sub-No. 1).

Freight forwarding is a service to which the public is entitled and our proper concern for one mode of transportation, such as the motor carrier industry, does not itself warrant denial of an application for a forwarding permit. By nature, the two are different and the public should have available to it a choice of the mode it desires to use (*Smyth Worldwide Movers, Inc., F. F. Application*, 337 ICC 721).

A freight forwarding service using multi-level rail cars for the line-haul movement of used passenger automobiles was authorized. This would help alleviate the wear and tear incident to over-the-highway (driveaway) movement involving long distances. At the same time this would give the customer the reliability of single-carrier responsibility from origin to destination (*Auto Trip USA Inc., Frt. Forwarder Application*, 337 ICC 570).

We reaffirmed our practice of looking to the substance of a transportation service, and held that no matter what a person calls himself, he will be subject to our regulatory jurisdiction if his operations fall within the description of freight forwarding contained in the act (*Star Forwarders, Inc. v. Intermountain Fast Frt.*, 337 ICC 265).

In a rather rare proceeding, we allowed a forwarder to abandon its permit after a finding that, as a motor-carrier controlled forwarder, it had not been used to discourage the legitimate and normal competition of other forwarders (*International Forwarding Co. Abandonment of Permit*, 339 ICC 462).

Water Carriers

Section 312a of the act, which empowers us to revoke authorities of domestic water carriers, was again considered. As evidenced by our decision in *Mechling Barge Lines, Inc. v. N. O. & Vicksburg Packet*, 337 ICC 257, unless there is reason to believe that a carrier's willful failure to operate under the terms of its certificate or permit will continue, the Commission is reluctant to invoke this power. In the aforementioned proceeding, we found the respondent should not be penal-

ized for the failure of shippers to tender it sufficient traffic. The carrier's intention to serve the general public and the fact that its conduct was not at variance with that intent were persuasive factors in dismissing the complaint.

Two other proceedings offered an interesting contrast. In *River Transp. Co. of St. Louis Cancellation*, 337 ICC 487, and *Universal Transp. Co.—Cancellation of Permit*, 337 ICC 840, a certificate and permit, respectively, had been issued to corporations which were subsequently dissolved. Here we set forth an intent to revoke the authorities for failure to institute, provide, and furnish the transportation authorized by the certificate and permit. We stated that the rights embraced in the certificate and permit in question were solely the property of the respondent corporations, did not attach to the individual shares of stock, and that any claimants to the assets of the corporations must obtain Commission approval of the transfer of such rights before instituting operation in their names.

PASSENGER OPERATIONS

Railroads

This year marked the beginning of a new era in intercity rail passenger service. As discussed in previous annual reports and numerous Commission decisions, the declining state of rail passenger service was in a critical stage, both for the traveling public and the carriers. Recognizing these problems, the Commission has sought to impress upon the public and their elected representatives the need for implementation of Federal assistance programs directed to preserving necessary passenger service. To this end the Commission supported enactment of the Rail Passenger Service Act of 1970 (Railpax). Signed into law by President Nixon on October 30, 1970, this law provided for the creation of a quasi-public corporation (Amtrak), subsidized in part by Federal funds and loan guaranties. In the final analysis, however, continuation of a meaningful rail passenger system depends upon the public's support, from both a patronage and financial standpoint.

Commission actions prior to Amtrak.—Despite the pending enactment of the Rail Passenger Service Act of 1970, the beginning of fiscal 1971 did not see an appreciable decline of train discontinuance proceedings instituted under section 13a(1) and (2) of the Interstate Commerce Act. From July 7, 1970, up to October 21, 1970, ten section 13a(1) proceedings, involving 13 pairs of interstate trains, were initiated. There were discontinuance proceedings instituted prior to July 1, 1970, which, because of the 4-month statutory limitation of section 13a(1), had to be decided prior to the enactment of Railpax. The Commission was duty bound to follow the statutory mandates of section 13a(1) and could not hypothesize on when, if ever, the Rail Passenger Service Act of 1970 would be enacted.

Three of the Commission's decisions are of particular interest insofar as they reflect on the difficult duty of balancing the financial burdens

on the carrier and interstate commerce against the interests of the public. The first case represents the last chapter of a 10-year saga whereby the Southern Pacific sought to eliminate most of its service between Los Angeles and Portland, Oreg. The Commission, in permitting the proposed change of service to a tri-weekly basis, took notice of the train's losses (\$1.7 million during 1969) and the fact that many riders were vacationers who could rearrange their schedules with relative inconvenience. However, Southern Pacific was sharply criticized for mediocre service and lack of promotional efforts (*Southern Pac. Trans. Co. Change in Train Service on Trains Nos. 11 and 12 Between Portland, Oreg., and Oakland, Calif.*, 338 ICC 1).

Another example of a railroad's continuing effort to eliminate service was evidenced in *Union Pac. R. Co. Discontinuance of trains*, 338 ICC 50. The involved trains represented the last service between these points, a distance of some 400 miles over sparsely populated and inaccessible terrain. The Commission took cognizance of the above factors, in addition to the heavy patronage, and denied the discontinuance despite yearly out-of-pocket expenses that exceeded revenues, by a ratio of more than two to one.

Of special interest was the Penn Central's proposal to discontinue 34 passenger trains (338 ICC 380). Like the two prior proceedings, and for that matter all cases that were pending as of October 31, 1970, this proceeding was rendered moot, for the most part, in view of section 802 of Railpax which "froze" operations of all the involved trains until May 1, 1971, the day the new corporation (Amtrak) commenced operations. Nonetheless, the Penn Central case dramatized the critical state of rail passenger service and the Commission's attempts to see that the public interest was met. Public hearings were held in 35 cities. Arguments were presented by the parties with the assistance of some 125 attorneys of record. The Commission authorized discontinuance of 14 trains but ordered continued operation of the remaining 20 trains. Of interest is the fact that Penn Central, a carrier in reorganization proceedings, was incurring a deficit of over \$5 million yearly on the trains ordered continued. Moreover, only the Harrisburg, Pa.-Baltimore, Md., route, with a combined daily average patronage of only 26, was left devoid of rail passenger service.

Commission Actions Subsequent to Amtrak.—With the enactment of Railpax, a difficult and controversial task began—that of designating the points in the basic national rail system. Section 201 of Railpax required the Secretary of Transportation to submit to this Commission

a preliminary report on the proposed system within 30 days. On November 30 the Commission received the preliminary report, and, pursuant to section 202, our review of the report began.

Our conclusions, submitted December 29, 1970, set forth general criticisms and specific recommendations. Our criticisms included such matters as the lack of specificity in identifying route selections, the broad latitude offered Amtrak in selecting the actual routes to be operated, and a failure to designate which intermediate points in the routes would be provided with service. Specific recommendations were directed as the inclusion of additional and end-point cities which otherwise would be left devised of service. Of noteworthy interest was the Commission's strong argument that the West Coast's Seattle-San Diego corridor, with its growing population, should continue to have rail service, particularly in view of the substantial eastern seaboard service which was incorporated into the basic system. The initial design of the system by the Secretary did not include this route. The end-point city recommendations also included a set of nine "secondary" recommendations. Recognizing that the Railpax Act envisions a "for profit" corporation, the Commission urged the Secretary to include these additional routings on at least a trial basis, as provided for in section 403 of Railpax. This would allow Amtrak the flexibility to discontinue the particular service prior to the section 404 statutory date of July 1, 1973.

The Commission was gratified to see many of its recommendations adopted in the Secretary's final report. For example, route identifications between end-point cities were more detailed and intelligible to the general public. Criteria utilized in selecting end-points were spelled out. Intermediate points were added and defined. Additional end-point cities were added, such as Seattle-San Diego, Los Angeles-New Orleans, and Chicago-Washington, D.C. With the final plan announced, and judicially non-reviewable, the Commission's role in establishing and implementing the basic system ended. Selection of the actual routes to be operated between the designated end-point cities and establishing of schedules was, and still is, within the exclusive jurisdiction of Amtrak officials.

By virtue of Railpax the Commission's role in train discontinuance proceedings was sharply curtailed. Until at least July 1, 1973, the Commission has jurisdiction to entertain section 13a(1) and (2) petitions only with respect to "commuter and other short-haul service" as defined in section 102(5) of Railpax. At first glance, the question of

what constitutes a "commuter" or other short haul service appears deceptively simple. The issue, however, is extremely complex requiring a case-by-case analysis, including public hearings in many instances.

Upon the enactment of Railpax, the Commission had 25 pending section 13a(1) and (2) proceedings. Justice demanded that all parties be afforded an opportunity to develop in each case the jurisdictional issue raised by the Rail Passenger Service Act of 1970, namely, whether the subject trains were "intercity" and thus subject to the new law, or, on the other hand, fell with the "short haul" exemption, thereby remaining under ICC jurisdiction. Two of these proceedings resulted in entire Commission reports.¹ The *Penn Central* case, now before the Commission on petition for reconsideration, lists six factors to be considered in deciding the commuter issue. In brief they include: (1) patrons traveling on a regular basis; (2) morning and evening peak periods of travel; (3) commutation tickets honored; (4) several stops at short intervals either within a zone or along the entire route; (5) equipment generally consisting of only ordinary coaches; and (6) service ordinarily not extending over 100 miles. The Commission found that the subject trains fell within the above categories and, accordingly, proceeded to decide the merits of the proposed discontinuance using section 13a(1) and (2) precedents.²

In the *Chicago and Eastern Illinois Railroad* case, *supra*, the Commission, utilizing the *Penn Central* criteria, concluded that the trains were "intercity" and dismissed the proceeding for lack of jurisdiction. In reaching this conclusion, the Commission observed that the distance between the points was 123 miles, the nearest stop to Chicago was 29 miles away, the average distance between stops was 17.6 miles, no commutation tickets were honored, and the consist of the trains included a buffet-lounge car.

The remaining 23 pending proceedings involved trains traveling distances of up to 2,000 miles, were found to be "intercity" by various orders, and were dismissed for lack of jurisdiction.³ Disposing of all its

¹ *Penn Central Transp. Co. Discon. or Change in Serv.*, 338 ICC 318; *Chicago & Eastern Illinois R. Co. Discontinuance*, 333 ICC 626.

² The Commission permitted discontinuance of 8 trains, change in service of 2, and required continued operation of the remaining 12 trains for a period of 6 months.

³ *Penn Central Transportation Company Discontinuance of Trains No. 24 and 33 Between Pittsburgh and Philadelphia, Pa., et al.* (embracing 17 other proceedings) F.D. 25558; *Seaboard Coast Line Railroad Company Discontinuance of Trains Nos. 51 and 52 Between Florence, S.C., and Augusta, Ga.*, F.D. 26137; *Penn Central*

13a(1) and (2) proceedings, however, did not entirely relieve the Commission of the "jurisdictional" controversy. Judge Fullam of the United States District Court for the Eastern District of Pennsylvania, who presides over the Penn Central reorganization, directed the Commission to determine the issue of whether certain Penn Central train operations were "intercity" or within the "short haul" exemption. Specifically, the service to be classified involves New York City-Chatham, New York City-Philadelphia, and Philadelphia-Harrisburg (Finance Docket Nos. 26632, 26633 and 26634).

Amtrak commenced operation of intercity passenger service on the scheduled date of May 1, 1971. A glance at their schedule shows that most trains, for the present, are being operated on essentially the same basis as prior to May 1, 1971.

The matter of continued passenger train operations would not be complete without mention of section 403 of Railpax. This section permits Amtrak to add routes outside of the basic system on the so-called "use it or lose it" basis. Already service has been added under this proviso, notably, to Cleveland, Ohio, the southern route through Montana, and to certain points in West Virginia. Section 403 further provides that upon request of the state or local municipality involved, Amtrak shall provide the service requested with the local public authority agreeing to assume no less than two-thirds of the losses incurred. Opportunity to appraise early operations of Amtrak will be presented when the first reporting period occurs in late 1971.

Auto Train.—Amtrak, with its statutory mandate to pursue innovative operating and marketing concepts (Section 301), undoubtedly will improve the quality of rail travel, which, at best, has remained stagnant over the last two decades. While the Railpax Act as a whole generally monopolizes all facets of intercity rail service, a little-noted section 102(5) exempts ". . . auto-ferry service characterized by transportation of automobiles and their occupants where contracts for such service have been consummated prior to enactment of this Act." Relying on this section the Auto-Train Corp. filed an application under

Transportation Company Discontinuance of Passenger Trains Nos. 136, 137, 142 and 147, Between Danbury, Conn., and Pittsfield, Mass., F.D. 26165; Penn Central Transportation Company Discontinuance of Passenger Trains Nos. 572, 578, 580, 573, and 579. Between New London, Conn., and Worcester, Mass., F.D. 26182; Penn Central Transportation Company Discontinuance of Trains Nos. 15 and 16 Between Cleveland and Columbus, Ohio, F.D. 26065; and Alabama, Great Southern Railroad Change in Service of Trains Nos. 1 and 2 Between Birmingham, Ala., and New Orleans, La., F.D. 26347.

section 1(18-20) of the Interstate Commerce Act seeking authority, which was approved,¹ to operate a combined rail passenger automobile transport service between Alexandria, Va. (a suburb of Washington, D.C.) and Sanford, Fla. (located near "Disney World") in conjunction with the Seaboard Coast Line Railway and the Richmond, Fredericksburg, and Potomac Railway. Travelers can leave their cars at Alexandria, enjoy a relaxing non-stop train trip to Florida with full services available, and pick up their cars at Sanford—all at a proposed standard rate, up to four occupants per car, which will be less than plane fare for a family of that size.

Although this is a unique operation for Americans, Europeans have enjoyed this service for a number of years. The advantages are obvious to our automobile oriented society. We are hopeful that this endeavor will serve as an impetus to increasing the use of rail passenger service.

Economic Data.—Calendar 1970, which embraced half of the 1971 fiscal year, was the last full year of independent intercity rail passenger service. Although a 10-percent fare increase became effective in September 1970, the table shows that intercity revenues were \$28.7 million lower than in 1969, as a result of the drop in traffic of 9.9 million passengers and 1,443.9 million miles traveled. The patronage decline was the sharpest on record.

During the 1960-1970 decade, the number of persons using railroad passenger service declined 13 percent, while revenues fell 34 percent.

Passenger operations of class I railroads, 1970 and 1969

	Calendar year		Percent change
	1970	1969	
	millions	millions	
Intercity operations ¹			
Revenue passengers	77.9	87.8	-11.3
Passenger revenues	\$248.1	\$276.8	-10.4
Revenue passenger miles	6,178.7	7,622.6	-18.9
Commuter operations ¹			
Revenue passengers	206.1	208.1	- 1.0
Passenger revenues	\$172.3	\$161.6	+ 6.6
Revenue passenger miles	4,591.7	4,546.3	+ 1.0

¹ A substantial amount of suburban service on eastern railroads is reported as intercity (noncommutation) service.

Source: Bureau of Accounts, Statement Q-220(OS-B).

¹ *Auto-Train Corp., Operation of Rail Passenger & Automobile Transport Service, Between Alexandria, Va. and Sanford, Fla., F.D. No. 26482.*

The changes were the result of the downward plunge of intercity operations. The period 1960-1970 saw intercity passenger revenues fall by 52 percent and intercity passenger miles shrink 64 percent.

The deterioration in intercity passenger operations during the last decade markedly changed the composition of rail passenger travel. In 1960, some 63 percent of rail passengers were commuters. They accounted for 20 percent of the total rail passenger miles and provided 20 percent of the revenues. In 1970, however, commutation accounted for 73 percent of the passengers, 43 percent of the miles and 41 percent of rail passenger revenues.

The number of commuters utilizing rail service (which remained below 1960 levels for most of the decade) declined slightly in 1970. The decline in patronage was offset by an increase in the length of the average journey and the previously noted fare increase. The year's operations yielded a greater increase in commutation revenues than for any year since 1960.

The rail passenger deficit reached \$476.7 million in 1970, an increase of approximately 3 percent over 1969.

Motor Carriers

Economic Data.—In general, the calendar 1970 operations of class I buses improved somewhat over 1969, as shown in the table. Although carrying 28.9 million fewer passengers in 1970, they earned \$34 million

Operations of class I motor carriers of passengers, 1970 and 1969

	Calendar year		
	1970	1969	Percent change
Total:			
Revenue passengers	500.7	529.6	—5.5
Passenger revenues	\$761.8	\$727.8	+4.7
Bus miles operated	1,046.6	1,046.8	0
Intercity schedules:			
Revenue passengers	146.1	150.8	—3.1
Passenger revenues	\$523.4	\$497.1	+5.3
Bus miles operated	767.4	763.6	+0.5
Local and suburban schedules:			
Revenue passengers	309.2	332.3	—3.1
Passenger revenues	\$123.9	\$121.5	+2.0
Bus miles operated	133.2	137.8	—3.3
Charter or special service:			
Revenue passengers	45.4	46.5	—2.8
Passenger revenues	\$114.5	\$109.2	+4.9
Bus miles operated	146.0	145.4	+0.4

Source: Bureau of Accounts, Statement A-750.

in additional passenger revenues—largely as a result of the five-percent fare increase effected in July. Intercity scheduled service, which provided 68.7 percent of the passenger revenues, improved its performance in terms of revenues and bus miles operated, while local and suburban scheduled service, which provided only 16.3 percent of revenues, continued to suffer the greatest losses in patronage and mileage operated.

Charter and special service, which in 1969 had enjoyed a 10.5-percent revenue growth, a 6.4-percent growth in miles operated, and a 2.2-percent increase in patronage, lost 2.8 percent of patronage and moderated its mileage and revenue gains considerably. The loss in patronage was limited to local and suburban motor carriers. Intercity carriers' charter service expanded in all respects.

Local and suburban service, by both local and intercity firms, continued to be eroded by both the increasing use of private automobiles and the previously reported tendency of class I carriers to divest themselves of these short-haul operations.

UNIFICATIONS

Merger and Control Actions

Railroads.—In our approval last year of the merger of the Louisville & Nashville and the Monon railroads, together operating 6,680 miles, we held the proceeding open to consider carrier employee protective conditions. We issued our conditions in a June 23, 1971 report (338 ICC 134).

In 1970 we reopened the proceeding seeking merger of the Norfolk & Western and the Chesapeake & Ohio to consider further the effect of the transactions on service to the public and on the Penn Central, which by then had gone into reorganization. Diversion studies were to have been filed by the parties, but on April 22, 1971, the applicants withdrew their proposal to merge and the proceeding was dismissed. (Finance Docket 23832).

In the proceeding involving the proposed consolidation of the properties of the Illinois Central and the Gulf, Mobile & Ohio into Central-Gulf, we have heard the parties in oral argument and are preparing our report (Finance Docket No. 25103). An examiner has proposed conditional approval of the transaction. The controversial questions presented in this case include the examiner's suggestion that Union Pacific end its ownership of Illinois Central Industries stock and that the question of lessened competition between Illinois Central and Gulf be resolved.

Action was taken this year on a novel proposal which could lead to railroad employees owning their own railroad. A newly-created corporate entity named North Western Employees Transportation Company (NETCO) would acquire from a conglomerate holding company the transportation assets of the Chicago & North Western Railroad. Under the plan, stock in the new company would be sold to the employees

of the C&NW Railroad. Hearings were completed June 3, 1971, and the hearing examiner has recommended conditional approval.

In 1967 we directed that three eastern railroads be included in the Norfolk & Western system as a sequel to the N&W-Nickel Plate merger consummated in 1964. One of the three railroads, the Boston & Maine, had second thoughts about the inclusion, and after obtaining several extensions of time, decided in May 1969, to reject the opportunity. A year later the B&M went into reorganization under section 77 of the Bankruptcy Act, and in December 1970, filed a plan of reorganization which, in substance, called for reopening the merger case and including the B&M in the N&W. We rejected the reorganization plan as impractical and denied the reopening request, for the railroad's situation in the east had materially changed and the time for the sought inclusion had passed.

On June 22 we held a public conference to consider steps available for the preservation of essential B&M service, and the matter is now under active study.

Motor Carriers.—In the area of motor carrier consolidations, mergers, purchases, and acquisitions of control, the Commission has continued its policy of handling each case on a flexible, individual basis. Established precedent, while looked to for guidelines, is not always followed when the public interest dictates otherwise. One example of this flexible treatment was the handling of *Moss Trucking Company, Inc.—Purchase—Hoffman*, 109 MCC 573. Customarily, the financial weakness of the purchasing carrier would have compelled denial. However, guarantees from the controlling shareholder allowed us to approve the application.

In other cases the Commission had to consider the impact of leasing violations. The Commission generally denies an application if the vendee has engaged in illegal lease operations, e.g., *Tri-State Motor Transit Co.—Purchase—Gottula*, 109 MCC 472. In another case, a proposed purchase was also originally denied because of violation of leasing regulations. However, the management and legal adviser of the offending carrier were replaced. Because of these changes and improved observance of lease regulations, the application was reconsidered and approved (*Pacific Northwest Motor Frt. Lines, Inc.—Purchase*, 109 MCC 463).

There has been a substantial increase in pooling of carrier services. Typically, large multistate carriers agree with a small local carrier for the latter to make all deliveries and pickups in certain lightly populated

areas. These arrangements are beneficial to a segment of the public suffering from lack of adequate transportation, to large carriers in providing faster service on long-haul runs, and to the interests of local carriers, by making more traffic available to them (*Consolidated Freightways Corp. of Del., Pooling*, 109 MCC 596; No. MC-F-10890, *Consolidated Freightways of Delaware, Et Al.—Pooling Application*; No. MC-F-11022, *Pacific Intermountain Express Co., Et Al.—Pooling—Graves Truck Line, Inc.*).

As the national level of economy waivered during the past year, its effect was felt by many large interstate motor carriers. For example, such carriers as Shamrock Van Lines and Michigan Express, Inc., both substantial carriers in their respective areas of operations, entered bankruptcy proceedings. Some motor carriers suffering significant operating losses were taken over by other lines or interests. An example was Hennis Freight Lines, Inc., which pursuant to a reorganization plan, was taken over by a non-carrier holding company, Benton-Spry, Inc., organized for that purpose. In a number of instances, temporary authority under section 210a(a)(b) was sought by motor carriers to control or lease other motor carriers having serious financial problems.

Because of the many proposals involving control of motor carriers conducting duplicate operations, we have prescribed conditions to be met by applicants seeking our approval (*Control or Consolidation of Motor Carriers*, 109 MCC 448). In some situations the problem is effectively solved by modifying the operating rights concurrently with consummation of the transaction. The rules place applicants on notice that we want steps taken to merge or otherwise unify as many affiliated carriers as practicable and as soon as possible, and that duplicate operations will not be permitted to go on indefinitely under common control except for very special reasons.

Intermodal Acquisitions

We have the power under section 5(14-16) of the Interstate Commerce Act to approve a transaction involving a railroad's control of a water carrier, except where the water carrier operates through the Panama Canal. An examiner has recommended approval of a proposal by the Southern Railway Company to acquire Southern Regional Coal Transport, Inc. This water carrier transports coal in bulk from docks near Shawneetown, Ill., and Sturgis, Ky., on the Ohio River, to a point near Sheffield, Ala., on the Tennessee River.

Unlike earlier years, we now seldom receive applications of railroad-owned motor carriers seeking to buy independent truckers. One of our employee's boards recently approved a within-the-system merger of several Penn Central subsidiary motor carriers. A similar proposal of two such carriers owned by Burlington Northern also has been granted.

CONGLOMERATES AND DIVERSIFICATIONS

Railroads

A continuation of the tight money market and high interest rates coupled with the effects of the Tax Reform Act of 1969 tended to dampen the pace of acquisitions and diversifications by conglomerate holding companies having rail interests. Congressional and other governmental interest in conglomerate activities also was an influencing factor on these activities. There were significant developments, however.

Western Pacific Industries, Inc., was set up as a conglomerate holding company owning the Western Pacific Railroad. The Chicago, Milwaukee, St. Paul & Pacific Railroad announced plans for the formation of a holding company—Chicago Milwaukee Corporation.

In the field of diversifications, Southern Pacific Company announced plans for a \$65 million office building and retail complex in San Francisco. Union Pacific Corp. and Eastern Gas & Fuel Associates formed a new company, Rocky Mountain Associated Coal Corp., to mine low-sulphur coal. Union Pacific Corp., which controls the Union Pacific R.R. Co., is considering segregation of the railroad's carrier activities from its non-transportation activities by transfer of non-transportation assets from the railroad to the parent.

Of four major railroads in reorganization under the bankruptcy laws, three were controlled by conglomerate holding companies at the time their bankruptcies were filed. Their problems have now been inherited by the supervising federal judges. The carriers are Boston & Maine Corp., Penn Central Transportation Co., and Lehigh Valley Railroad Co.¹

See page 95 for discussion of the Commission's proposal to develop

¹ The fourth, the Central Railroad Company of New Jersey, was controlled by the Baltimore & Ohio Railroad.

new laws regarding conglomerates and their effect on the rail industry.

The following tables show capital structure, selected balance sheet items, and net income for conglomerate holding companies and major railroad companies controlled.

Selected balance sheet items in millions for conglomerate holding companies and major railroad companies controlled, as of December 31, 1970

	Working capital ¹	Working capital ²	Debt	Equity
Northwest Industries, Inc. (Cons.) ^a	\$229.5	\$185.9	\$ 147.3	\$ 389.0
Chicago & North Western Ry. ^b	^a 2.2	^a 20.9	282.8	422.5
Penn Central Company (Cons.)				
Pennsylvania Company ^b	^a 40.8	^a 40.8	103.5	345.2
Penn Central Transportation Co. ^b	109.9	25.2	1,901.8	1,500.4
Illinois Central Ind., Inc. (Cons.) ^a	120.0	109.4	317.4	705.0
Illinois Central Railroad ^b	37.4	26.7	237.1	611.1
Rio Grande Ind., Inc. (Cons.) ^a	22.2	18.1	84.3	159.2
Denver & Rio Grande Western R.R. Co. ^b	27.1	23.0	80.6	182.8
Union Pacific Corporation (Cons.) ^a	70.0	23.5	634.1	1,416.7
Union Pacific R.R. Co. ^b	105.7	75.3	470.7	1,805.6
Santa Fe Industries, Inc. (Cons.) ^a	48.7	6.6	542.6	1,298.3
Atchison, Topeka & Santa Fe Ry. Co. ^b	55.7	16.2	335.1	1,419.1
Kansas City Southern Ind., Inc. (Cons.) ^a	5.9	.7	107.1	138.1
Kansas City Southern Ry. Co. ^b	9.6	5.9	91.6	147.8
Southern Pacific Company (Cons.) ^a	19.5	^a 2.0	800.9	1,596.6
Southern Pacific Transportation Co. ^b	48.5	29.5	789.0	1,483.8
Katy Industries, Inc. (Cons.) ^a	21.1	1.7	21.3	33.6
Missouri-Kansas-Texas R.R. Co. ^b	^a 3.6	^a 6.7	108.2	1.9
Mississippi River Corp. (Cons.) ^a	2.1	^a 4.0	92.2	106.6
Missouri Pacific System ^a	21.1	7.4	719.2	510.0
Missouri Pacific R.R. Co. ^b	1.3	^a 8.9	561.3	383.7
Seaboard Coast Line Ind., Inc. (Cons.) ^a	^a 3.7	^a 31.3	390.0	668.8
Seaboard Coast Line R.R. Co. ^b	30.1	3.3	377.8	780.0
Boston & Maine Ind., Inc.				
Boston & Maine Corp. ^b	2.2	^a 1.5	71.8	84.9
Amoskeag Co.				
Bangor & Aroostook R.R. Co. ^b	^a .4	.9	25.8	35.2
				^a .9
Western Pacific Ind., Inc.				
Western Pacific R.R. Co. ^b	^a 2.5	^a 6.5	60.8	120.9

^a Deficit.

¹ Including materials and supplies.

² Excluding materials and supplies.

^a Source: Annual Report to Stockholders.

^b Source: Annual Report Form A to Interstate Commerce Commission.

Working capital is capital in current use in the operation of the business: the excess of current assets over current liabilities.

Net income in millions for conglomerate holding companies and major railroad companies controlled, as of Dec. 31, 1970

	Annual report to stockholders	ICC annual report form A
Northwest Industries, Inc. (Cons.)	¹ \$ ^a 227.3	\$ ^a 227.3
Chicago & North Western Ry.	^a 403.0	^a 4.5
Penn Central Company (Cons.)		
Pennsylvania Company	—	^a 61.1
Penn Central Transportation Co.	—	^a 425.7
Illinois Central Inds., Inc. (Cons.)	36.3	33.3
Illinois Central Railroad	23.8	23.8
Rio Grande Industries, Inc. (Cons.)	11.9	—
Denver & Rio Grande Western R.R. Co.	—	13.5
Union Pacific Corporation (Cons.)	75.1	—
Union Pacific R.R. Co.	² 82.3	123.0
Santa Fe Industries, Inc. (Cons.)	40.2	—
Atchison, Topeka & Santa Fe Ry. Co.	—	48.6
Kansas City Southern Ind., Inc. (Cons.)	7.8	—
Kansas City Southern Ry. Co.	—	8.6
Southern Pacific Company (Cons.)	76.9	—
Southern Pacific Transportation Co.	—	66.4
Katy Industries, Inc. (Cons.)	.9	—
Missouri-Kansas-Texas R.R. Co.	^a 3.6	^a 5.0
Mississippi River Corp. (Cons.)	9.7	9.7
Missouri Pacific System	21.6	—
Missouri Pacific R.R. Co.	18.2	18.2
Seaboard Coast Line Ind., Inc. (Cons.)	30.0	—
Seaboard Coast Line R.R. Co.	² 29.8	36.8
Boston & Maine Ind., Inc. (Cons.)	1.9	—
Boston & Maine Corp.	—	^a 14.2
Amoskeag Co.	2.6	—
Bangor & Aroostook R.R. Co.	—	^a 4.4
Western Pacific Ind., Inc. ³		
Western Pacific R.R. Co.	^a 14.0	^a 11.8

^a Deficit.

¹ Earnings before extraordinary items were \$36.9; after extraordinary items a deficit of \$227.4.

² In conformity with generally accepted accounting principles.

³ Incorporated December 21, 1970.

Motor Carriers

As with the railroads, there was a general moderation in the conglomerate and diversification activities of motor carriers. With the exception of the Greyhound Corporation, most of the diversifications by motor carrier conglomerates were of a vertical nature. Two examples were Arkansas Best Freight Systems, Inc.'s acquisition of Youngblood Truck Line, Inc., and the Bekins Company purchase of a mover of household goods (May's Transfer, Inc.).

The Greyhound Corporation with its purchase of Armour and Company, Sunshine Hatchery, Inc., and other companies has tended to

dwarf other conglomerate and diversification movements in the motor carrier industry for the past few years. Subsidiaries of Greyhound have also become noticeably active in restructuring. Armour and Company, for instance, sold its 50-percent interest in Kalium Chemicals and has proposed the sale of the assets and business of the construction equipment group of Baldwin-Lima-Hamilton Corporation. Another subsidiary, Consultants and Designers, Inc., agreed to acquire Product Presentation, Inc., a designer and manufacturer of exhibits and displays for conventions and trade shows.

Non-transportation firms continued to invest or show an interest in regulated motor carriers, although at a somewhat slower pace. Three notable examples included: (1) Sears, Roebuck and Company's acquisition of a 20-percent interest in Signal Delivery Service, Inc., a subsidiary of Leaseway Transportation Corporation; (2) International Utilities Corporation's proposed purchase of Pacific Intermountain Express Co.; and (3) Fuqua Industries, Inc., proposed purchase of Fox Valley Express, Inc., through its motor carrier subsidiary Interstate Motor Freight System.

FINANCE AND ACCOUNTS

The financial condition of carriers is one of the most significant indexes of the transportation industry's capability to provide the requisite service. Appendix G provides statistical summaries of the financial trends affecting rail, motor, water, oil pipeline, and express carriers on an industry-wide basis. Individual companies among the regulated carrier types varied widely in financial condition, ranging from highly profitable, with expectations of continued growth, to bankruptcy, with little hope of regaining solvency.

While the data in Appendix G reflect calendar rather than fiscal year appraisals, the trends established by both types of review are consistent. In the reporting period of this 85th Annual Report there were indications of a precarious financial outlook for a number of railroads. Regulated motor carriers' history of vigorous growth also witnessed some setbacks this year, particularly among smaller carriers, as measured by declines in ton miles, rates of return, and operating ratios. The freight forwarding industry declined in volume of traffic handled, with a resultant net income deficit. Contrasted with these experiences were the advancements posted by water carriers and oil pipelines, both of which noted increases in traffic and revenues.

The Commission's interest in the financial well-being of carriers flows in three principal channels in addition to an examination of a carrier's finances on a case-by-case basis. One concerns consideration of railroads' reorganization plans submitted in accordance with bankruptcy laws. The second involves the need for Commission approval of carriers' issuance of stocks and securities. The third is directed to the Commission's programs for prescribing and monitoring the accounting systems of carriers, from which are developed the statistics in Appendix G.

An activity related to the overall subject of finance and accounts concerns administration of the railroad loan program. Although loan guaranties are no longer approved by the Commission, a number of

earlier endorsed loans still have some years to run and must be continuously serviced.

Reorganizations and Bankruptcies

Railroads—The Boston & Providence Railroad consummated its plan of reorganization this year, and the Lehigh Valley Railroad Company went into reorganization under Section 77 of the Bankruptcy Act. Three railroads in reorganization experienced difficulties in generating sufficient cash to continue operations: the Penn Central; The Central Railroad Company of New Jersey (Jersey Central); and the Boston & Maine Corporation (B&M). Under the Emergency Rail Services Act of 1970, the Department of Transportation, after consultation with this Commission, guaranteed a loan of \$100 million to the Penn Central and \$6 million to the Jersey Central. An application for a guaranty loan by the B&M was denied.

Motor Carriers.—Three motor carriers went into reorganization this year: Sawyer Transport, Inc.; Hennis Freight Lines, Inc.; and Robert W. Sawyer (Sawyer Equipment Co.). The Commission has no direct statutory role in motor carrier reorganizations, but they usually require our approval if there is a sale of rights to another carrier or issuance of securities, and, as in the case of any public utility in bankruptcy under Chapter 10 of the Bankruptcy Act, this Commission would be given an opportunity to review any reorganization plan filed with the court and to suggest amendments or offer objections.

Securities

The 196 securities applications filed during fiscal year 1971 represented a 7-percent increase over those filed in the prior fiscal year.

The Commission this year instituted a rulemaking proceeding in Ex Parte No. 275 to determine whether, in the light of the wide adoption of the Uniform Commercial Code and present day practices, the term "securities or other evidence of indebtedness" in section 20a of the act should be expanded to include certain financing transactions which since 1920 have been held not to constitute securities or other evidence of indebtedness.

The Commission's staff consulted with the staff of the Securities and Exchange Commission for the purpose of developing proposed statutory changes to close gaps which exist between sections 20a and 214 of the Interstate Commerce Act, and the authority of the SEC.

Many railroads reported difficulty in issuing securities on favorable terms as a result of the Penn Central bankruptcy's effect on the financial community. Interest rates of securities authorized to be issued during fiscal 1971 showed a decline over the previous year, reflecting the national interest rate trend.

The Commission submitted legislative recommendations to Congress to expand its jurisdiction over holding companies or parties which control carriers, including holding companies or parties that control only one major carrier and which presently are exempt from our control.

Loan Guarantees

The railroad loan program administered by the Commission under part V of the act, had been reduced to \$161,789,259 on June 30, 1971, as compared to \$165,344,568 a year earlier. This year the United States made the following payments of principal and interest on defaulted guaranteed loans:

Penn Central Transportation Company	\$17,805,400
Lehigh Valley Railroad Company	11,750,304
Trustees of the New York, New Haven and Hartford Railroad Company	12,922,188
The Boston & Maine Corporation	3,423,121

These actions were turned over to the Department of Justice to take appropriate steps to recover the amounts paid from the defaulting railroads.

Only two petitions to modify the provisions of part V loans were filed during the year. However, some railroads have indicated they will be unable to meet the maturities coming due in final years of their loans and the Commission has recommended to the Congress that the 15-year statutory period be extended. At present all loans would mature no later than October 1, 1978.

Accounts

Reports.—During fiscal 1971, we received and processed approximately 29,200 periodic and 19,400 annual accounting, financial and statistical reports. The reports, filed by some 17,750 carriers and organizations subject to economic regulation by the Commission were made publicly available upon receipt. The reports are in continuous use to analyze not only the financial condition of an individual carrier,

but entire segments of the surface transportation industry. The reports aid in determining transportation costs for rate increases, provide background information for merger and control actions, and produce data to determine economic trends.

Appendix G indicates by modes of transportation the number of carriers and organizations subject to accounting and reporting regulations. Appendix E lists publications prepared from the reports.

Computer Address and Information System.—Computer files of all motor carriers were well established and several goals achieved this year. The computer master file handled all mailings of annual and quarterly report forms, traced carriers for delinquent reports, established name and address data for process servings, and provided our field offices with lists of carriers for their use in day-to-day servicing of public requests. We are adding to the master file the names and addresses of carriers and organizations other than motor carriers, i.e., railroads, water carriers, oil pipe line companies, freight forwarders, private car lines, and rate bureaus and organizations. We expect the work to be completed during the 1972 fiscal year.

Modification of Reporting Requirements.—The reporting requirements for all modes were reviewed and several important changes applicable to 1971 reporting were introduced. The changes called for additional information for accounting and cost finding work. The Commission, in Docket No. 32153, *Uniform System of Accounts for Railroad Companies*, required carriers to show the accounting treatment of terminals and highway equipment used in TOFC/COFC (piggy-back) service. The reporting of car days paid for was included in the changes made in railroad annual report Form A in two categories—unequipped boxcars and all other per diem cars.

A Maritime Administration request for reduction in reporting by maritime carriers, is under consideration. Since a number of changes suggested are of mutual interest to the Federal Maritime Commission and the ICC, they are being carefully analyzed with the expectation that any changes made will be effective retroactive to January 1, 1971. Preliminary indications are that most of the data no longer needed by the Maritime Administration are considered essential to the work of the ICC and FMC.

Modification of Publications.—Beginning with the 1971 statistics, several publications previously issued on a quarterly or monthly basis are to be published semi-annually. No change in the frequency of filing reports has been made. The information will still be filed with the

Commission and available for inspection in the Commission's public reference room. The statements to be published on a semi-annual basis include:

- Q-100 *Operating Revenues and Operating Expenses of Class I Railroads.*
- Q-125 *Selected Income and Balance Sheet Items of Class I Railroads.*
- Q-200 *Operating Statistics of Class I Line-Haul Railroads, Selected Items.*
- Q-210 *Train and Yard Service of Class I Railroads.*
- Q-220 *Revenue Traffic Statistics of Class I Railroads.*
- Q-240 *Motive Power and Car Equipment of Class I Railroads.*
- Q-600 *Transportation Revenue and Traffic of Large Oil Pipe Line Companies.*
- Q-650 *Revenue and Traffic of Large Carriers by Water.*
- Q-750 *Revenues, Expenses and Statistics of Class I Motor Carriers of Passengers.*
- Q-800 *Revenues, Expenses and Statistics of Class I Motor Carriers of Property.*
- Q-950 *Revenues, Expenses and Statistics of Freight Forwarders.*
- M-300 *Wage Statistics of Class I Railroads.*

ENFORCEMENT

One measurement of the Commission's enforcement program can be made by summarizing prosecution efforts in terms of fines and monetary settlements, as indicated in Appendix C. Equally important is the manner in which the enforcement mechanism was utilized to assist the consumer and assure the orderly organization of the transportation system, without which the consumer would quickly encounter chaos in rates and service.

Areas of special aid to consumers included our enforcement program's actions against unlawful practices involving household goods moves, small shipment service, freight car service, and maintenance of proper insurance for protection of the public.

Prosecution of household goods carriers violating our rules which protect consumers resulted in court fines up to \$3,600. Civil forfeiture settlements ranged up to \$3,800. In prosecuting violations involving small shipment operations our enforcement program sought and obtained court fines against carriers for failing to handle small interline shipments, and Commission proceedings were used for the purpose of obtaining orders requiring specific carriers to provide reasonably continuous and adequate service. Railroad freight car shortages resulted in many service failures, and continuing prosecution of violations of our service orders was necessary to assure an equitable availability of rolling equipment for shippers. Even though hijackings and cargo thefts made it difficult for some truck operators to obtain insurance required by the Commission, such coverage was considered mandatory for protection of the public. Violations of the insurance provisions of section 215 of the act were promptly prosecuted.

Enforcement actions to protect the consumer were buttressed by prosecution of violations of the laws designed to assure equitable treatment of all shippers and all regulated carriers. The entire system of transportation regulation would quickly disintegrate without strict en-

forcement of the rules regarding rate integrity, unauthorized operations, and carrier capitalization.

Protection of rate integrity relies principally on an active prosecution program against both carriers and shippers participating in practices involving rebates or concessions. Examples of the Commission's enforcement endeavors in this area during the year include the following actions:

Cartage Allowance

Seaboard Coast Line RR—paying unauthorized allowances for newsprint cartage service—\$14,000 fine. (The consignee, Sentinel Star Company, previously paid civil forfeiture of \$14,090 as a result of the concessions.)

Shannon Brothers Terminal Corp.—filing false cartage claims with Erie-Lackawanna RR—\$5,000 fine. The railroad was fined \$8,000 for granting the concessions.

Baltimore and Ohio RR—paying false cartage claims of two truck operators—\$10,000 fine. The motor carriers—Dairy Dispatch Corp. and Edward A. Thompson, Inc., were fined \$5,000 each.

Misdescription of Shipment

Farley Terminal Company, Inc., and John J. Farley, shippers' agents—receiving concessions based on false billing of weights of shipments—\$20,000 civil forfeiture.

Baltimore and Ohio RR—charging less than applicable tariff rates on shipments the railroad knew were incorrectly described by the shipper—\$4,000 fine. (The shipper, Cosmin Corporation previously had paid civil forfeiture claims of \$5,000 as the result of the unlawful concessions.)

Order Bills of Lading

Offenses in which a railroad delivered and a shipper accepted shipments without surrender of original order bills of lading and without establishment of security for delivery as required by the applicable tariff—Western Maryland RR and D. E. Horn & Co.—each fined \$3,000.

Emil A. Kaufman, Inc.—fined \$7,000.

Other Rail Rate Cases

The Penn Central Transportation Company (prior to reorganization proceedings)—not assessing storage charges and demurrage charges—\$8,000 and \$10,000 fines. Weirton Steel Company was fined \$10,000 for not paying the demurrage charges.

R. G. Tourneau, Inc.—obtaining transportation under a claim of transit privilege which did not properly apply—\$5,000 in civil forfeiture settlement.

Atlanta & West Point RR—billing multiple carloads of freight tendered on different days, as though they were single shipments on the same day—\$2,000 fine.

Motor Carrier Rate Cases

Bowman Transportation Inc.—reconsigning and tagging shipments without charge—fined \$1,000. Brady Motorfrate, Inc.—failing to charge for vehicle detention as required in its tariff—fined \$1,000.

Swart Trucking, Inc., Ed Wellestat, Inc., and Murlogg Farm Van Co., Inc. granting concessions—or overcharging shippers—fined \$2,500, \$1,100 and \$800 respectively.

Uniroyal, Inc. and Provost Cartage, Inc.—paying and collecting less than the charges specified in the effective tariff—fined \$1,800 and \$1,600 respectively.

Illegal Operations in Competition with Authorized Carriage

Notwithstanding the extensive national transportation policy re-evaluation now taking place concerning the advisability of licensing carrier operations, particularly those of motor carriers, existing laws requires licensing and much of the Commission's enforcement effort is directed to obtaining compliance with operating rights provisions of the act. Carriers who have themselves obtained required operating authority are unfairly injured by illegal operations in competition with their regulated services; and the shipping public is denied the benefits, particularly rate integrity, underlying the existing regulatory plan whenever illegal operations go unchecked.

Unlawful operators paid fines or forfeitures ranging up to \$17,500 and were subject to court injunctions, contempt penalties for violation of those injunctions, Commission cease and desist orders, findings of unfitness to properly conduct operations proposed in application proceedings, and term limitations in operating rights authority granted. One carrier, Midwest Emery Freight System, Inc., in a revocation proceeding (MC-C-4201), voluntarily accepted an order requiring partial suspension for 60 days of all of its trip leasing operations in one of its divisions, which should reflect a loss in its gross revenue of as much as \$200,000. As a part of the settlement, the cease and desist order previously entered remained outstanding so that any further violation could result in an even more severe penalty.

Big Sky Farmers and Ranchers Marketing Cooperative of Montana—operating beyond the scope of the agricultural cooperative exemption, as clarified by Public Law 90-433—\$20,000 civil forfeiture. American Farm Lines and Howard McCormack¹—operations without appropriate authority—contempt judgement of \$91,088 damages, attorneys' fees, costs, and interest.

Activities Club of New York, Ltd., and Fred Krasny— brokering interstate bus transportation without a license—\$2,500 fine.

Tedesco Bus Co., Inc.—transportation without operating authority—\$3,000 fine.

Carrier Capitalization

In addition to the various aspects of carrier capitalization discussed earlier in this report, the practice of extending credit for long periods can have a negative impact on the financial condition of the transportation industry. Fiscal 1971 cases illustrating the Commission's emphasis on maintaining compliance with credit rules included:

Louisville and Nashville RR—\$15,000 civil forfeiture settlement.

Colorado & Wyoming RR—\$10,000 civil forfeiture settlement.

Atchison, Topeka and Santa Fe RR—\$5,000 civil forfeiture settlement.

DCA Development Corp.—\$15,000 civil forfeiture settlement.

White Stores, Inc.—\$10,000 civil forfeiture settlement.

Mach Lumber Company—\$5,000 fine.

Associated Transport, Inc.—\$3,200 fine.

Carrier capitalization is also the concern of section 214 of the act, which requires prior approval of the Commission for carriers to issue securities. In the first case involving a criminal prosecution for violation of this section, F. W. Boutell Driveaway Co., Inc., was fined \$2,000 for issuing promissory notes without ICC approval.

Civil Forfeitures

The use of the "Federal Claims Collection Act of 1966" (31 U.S.C. 951 et seq) has continued to bring increasing monetary sanctions for violation of the Interstate Commerce Act, Motor carrier related settlements, the largest volume of cases we handled under the Collection Act, amounted to \$567,315 this year, which exceeds the fiscal 1969 figure by more than 60 percent. The majority of the 422 cases settled involved unauthorized carriage.

¹ Munitions Carriers Conference, et al. v. American Farm Lines and Howard McCormack, 415 F. 2d 747 (page 85, 84th Annual Report).

Claims settlements for violations of car service or distribution orders, to alleviate freight car shortages by creating pressures on the railroads to properly place cars, represented another use of the demand forfeiture procedure. Settlements from railroads for violations of car service or distribution directives amounted to \$847,350, exceeding the fiscal 1970 total by 27 percent.

Significant freight car shortage related civil forfeiture settlements included:

Missouri Pacific Railroad Company, \$104,400.
Baltimore and Ohio Railroad Company, \$83,500.
Illinois Central Railroad Company, \$71,900.
Southern Pacific Transportation Company, \$65,450.
Union Pacific Railroad Company, \$49,050.
Atchison, Topeka and Santa Fe Railroad Company, \$48,300.
Southern Railway Company, \$45,000.
Chicago, Milwaukee, St. Paul and Pacific Railroad Company, \$42,200.
Chicago, Rock Island and Pacific Railway Company, \$40,000.

Trends

Fitness program.—In recent years there has been an increasing tendency to deny applications for operating authority, even where there is some need shown for the proposed service, in circumstances where the applicant by its past violations is shown to be unfit to conduct the operation proposed. In one case, Wells Bros. was found unfit with Division 1 stating that any possible benefit to the public from a grant of authority was overshadowed by the possible adverse effect its operations may have on the public. Terminal Taxi Co., Inc., similarly was denied authority based on its past compliance record. Among other carriers denied authority based on fitness, International Carriers, Inc., was found by Division 1 to have engaged in leasing practices evidencing "a pattern of evasiveness and reckless disregard" of the act. Operating authority limited to a three-year term was issued to a number of other motor carriers, including Spector Freight System, Inc., which was found not to be providing reasonable and adequate service to specific shippers, and Johnny Brown's Inc., which was found to have seriously violated the act.

Maintaining proper records.—Our 84th Annual Report discussed enforcement measures against carriers that are not properly keeping required records. This trend has continued and increasingly includes carriers failing to file required reports. For instance, Bestway Freight

Lines, Inc., Topeka Motor Freight, Inc., and Abler Transfer, Inc., paid civil forfeitures of \$1,700, \$500 and \$1,000, respectively, for failing to timely file quarterly or cost study reports.

Intermodal Overseas Transportation

There is an increasing overlap between the interests of the Federal Maritime Commission and this Commission in the freight forwarder field. This particularly concerns traffic moving through Pacific Coast ports. Many of the problems arise in cases where our Bureau of Enforcement asserts that certain business entities, including some recognized or regulated by FMC, are conducting operations that constitute unlawful freight forwarding. The challenged operations concern certain motor carrier or rail transportation occurring within the United States. A related question expected to develop in some proceedings is whether some of the ports themselves are conducting operations without appropriate authority. Most of the enforcement cases resulting are Commission proceedings instituted on our own motion under Section 403(f) of the act. They involve possible violations in the movement of containerized traffic where part of the transportation is performed by oceangoing vessels.

ADMINISTRATION

Caseload

The fiscal year saw an increase in the pending caseload as rising case receipts created a workload that continued to exceed our productive capacity. The openings for the year—8,732 cases—were 4.8 percent higher than 1970 and 16.3-percent higher than 1969. Case closings for the last three years have remained relatively stable—around the 7,900 range—despite lower staffing levels this year.

Expediting Cases

Two major steps were taken during the year to cope with the continuing increase in our formal proceedings workload. One change was organizational; one procedural. The organizational refinement consisted of establishment of the Office of Hearings as a separate entity. A streamlining of procedures was accomplished in handling general rate increases of both rail and motor carriers. This should expedite final decisions in these cases and should ease the path of participation for the smaller shippers who may not have the resources for long and protracted rate hearings.

It also is expected that overall improvements in case processing will be attained through construction of new rules of discovery, which are a primary focus point for practitioners' development and preparation of evidence—Ex Parte No. 55 (Sub-No. 3), *General Rules of Practice (Discovery Rules)*. Revision of discovery practices has been proposed by the Association of Interstate Commerce Commission Practitioners, the Committee on Procedure of the Motor Carrier Lawyers' Association, and the Administrative Conference of the United States.

Management

Organizational changes.—In addition to the creation of the Office of

Hearings already noted, a series of staff reorganizations strengthened our operations.

The positions of Secretary and Congressional Liaison Officer were combined, with some operations of each shifted to other staff units in the agency.

From the Office of the Secretary, the section of reference services was moved to the Office of Proceedings. The library, the mail branch and the printing unit of the service branch were shifted to the Office of the Managing Director—section of administrative services. The Secretary retained custody of the Commission Seal and the agency's official records; responsibility for authenticating Commission orders and service on parties to formal proceedings; and responsibility for preparation of material for the Federal Register and the Code of Federal Regulations.

Legislative Office changes included transfer of the legislative counsel functions to the Office of the General Counsel.

A section of audit was created in the Commission's Bureau of Accounts. It is expected the new office will achieve a greater efficiency of resources through consolidation of certain headquarters review and audit functions. Additionally the new section was assigned responsibility for supervision of the Bureau of Accounts' field staff.

Management improvement and program evaluation.—During the year we made our first report under the Government-wide management improvement program. The Office of Management and Budget established this program in 1970 and asked each agency to implement a system for improving the establishment of objectives, measuring progress, evaluating results, and taking corrective action when necessary. Although these techniques were already incorporated in our program evaluation system, which has been in operation since 1964, further refinements to it resulted in sharpening our total management improvement efforts.

Under the program evaluation system the regulatory bureaus at the beginning of each fiscal year are given guidelines upon which to base establishment of their headquarters' and field program objectives for the ensuing year. Through the use of a formal reporting system, accomplishments are measured and evaluated in relation to established objectives in order to insure that the Commission's resources are being applied in the most effective manner. Although statistics constitute an important part of the system, during the current year we placed greater emphasis on the analytical aspects of the program pertaining

to field operations. This enabled a more valid determination of the overall status of field programs and the identification of significant problem areas.

Management effectiveness and cost reduction.—During fiscal year 1971 the Commission submitted its first report under the Government-wide management improvement program. The Office of Management and Budget established this program in fiscal year 1970 and asked each agency to implement a system to improve the establishment of objectives, measuring of progress, evaluating results, and taking corrective action when necessary. Although these techniques were already incorporated in our program evaluation system, further refinements to it resulted in a sharpening of our total management improvement efforts.

The OMB Government-wide management improvement program replaced the former cost reduction program. Under the revised program, more exacting standards were introduced for the reporting of cost reduction actions. Following the guidelines established by the OMB, cost reduction savings amounted to \$30,550 in fiscal year 1971. The savings resulted from the commission's reorganization in 1970 (\$9,100); paper-work reduction (\$12,900); automation of Commission publications—converting hand tabulation to computer processing (\$5,050); and the new computer address and information system (\$3,500).

Field activities.—We currently maintain 80 field offices in 48 States and the District of Columbia as shown in Appendix A. Most of our field offices are staffed with three or fewer employees.

Severe budgetary restrictions necessitated a reduction in our already thinly spread field forces during the year. The table on page 85 is indicative of some of the principal work items handled by our staff. Production was maintained at a high level during the year only through various innovations and improvisations, such as consolidation of work areas and shifting of work among field officers to meet priority needs; cross-training and cross-use of staff in the several modal specialties; increased participation in the Federal-State cooperative activities and joint operations; voluntary overtime by staff members; and other similar means to obtain maximum use of our limited resources. With our reduced staff every effort was made to promptly respond to all consumer inquiries and complaints. We continued our support of the Federal Executive Boards and the defense mobilization programs. The table on page 86 shows the progress over the past three years in recruiting executive reservists in the Commission's national defense unit. Our field offices were twice put on a semi-emergency basis during the year

(December 1970 and May 1971) to provide assistance to shippers, carriers, and the general public during work stoppages in the rail industry.

Bureau of Operations—Field program: railroads, motor carriers, water carriers and freight forwarders, and rate bureaus

	Fiscal years	
	1970	1971
Motor-Water-Forwarder:		
Enforcement:		
Complaints of violations received	2,872	5,577
Complaints investigated and action taken	2,837	2,693
Investigations with court action expected	918	1,029
Other complaints received and handled (service, household goods, etc.)	23,646	23,595
Motor Carrier general compliance surveys	1,558	1,677
Other enforcement matters	18,763	17,157
Operating authority:		
Permanent authority applications	5,058	5,372
Temporary operating authority	8,460	8,713
Certificates of registration	55	49
Transfer proceedings Sec. 212(b)	865	304
Transfer Sec. 5	335	326
Temporary authority with acquisition	206	246
Rate bureau agreements	11	11
Revocations and dismissals	243	249
Other operating authority matters	33,117	32,783
Rates and tariffs:		
Assistant in tariff and rate publication	1,978	2,012
Tariff and rate interpretations	5,846	6,252
Insurance:		
Insurance compliance delinquencies	4,212	4,548
Other insurance matters (lapses, filings, requirements, etc.)	5,802	5,831
Accounts:		
Accounting report delinquencies	1,920	1,302
Other accounting matters	2,453	2,173
Railroads:		
Car Service:		
Agencies and yards checked for general compliance	5,433	4,336
Seasonal commodity surveys and expediting checks	1,127	649
Enforcement:		
Special investigations on complaints and service	4,950	4,762
Enforcement investigations and compliance surveys	427	557
Cooperative Agreements with States:		
Exchange of Information	8,844	8,626
Evidence furnished	546	370
Witness in State Proceedings	39	25
Joint Investigations or Conference	1,002	568

ICC unit of the National Defense Executive Reserve status of membership and recruitment at close of fiscal year

NDER group	Fiscal year 1969			Fiscal year 1970			Fiscal year 1971		
	On rolls	Additional nominees	Total	On rolls	Additional nominees	Total	On rolls	Additional nominees	Total
Rail	619	252	871	628	255	883	683	246	929
Motor	185	27	212	181	27	208	196	29	225
Water	49	14	63	54	9	63	58	13	71
Other	18	0	18	17	0	17	17	0	17

The Commission's budget.—The Commission's fiscal 1971 appropriation was never enacted. Instead, the Commission operated under a series of joint resolutions. Both Houses of Congress approved a \$1,400,000 increase over and above the President's budget. However, the operating level approved by Congress was reduced when the Office of Management and Budget required the Commission to absorb approximately one-half (\$700,000) of the annualized cost of pay increases authorized under Public Law 91-231. A continual decline in employment resulted from December thru June in order to absorb the amount required by OMB action.

During fiscal 1971, four railroads (Lehigh Valley, New Haven, Penn Central and Boston & Maine) defaulted on nearly \$44 million in loans guaranteed by the Commission. These amounts were made available through a budget amendment and a supplemental appropriation.

The President's budget for fiscal 1972 included 1,725 positions and \$28,940,000 for the Commission. While this represents the same number of positions in 1971, our average employment will be lower in order to finance mandatory increases.

Congress added \$1,700,000 to the President's budget request for a total appropriation to the Commission for fiscal 1972 of \$30,640,000. These additional funds will allow us to increase our work force by 140 for a total authorized strength of 1,865 positions.

Manpower development.—To improve personnel proficiency during the year, 4,800 hours of training at the Commission and 5,700 hours through use of interagency and nongovernment facilities were authorized. Training at the Commission included continuation of our special legal instruction for new attorneys, and supervisory training for newly appointed line supervisors. We also initiated a Supervisory-Management Institute for attorneys. Our employees' assignments in management and executive training included participation in the Middle-Management Institute and the Federal Executive Institute.

Review courses in typing, shorthand and English continued to be available for the benefit of clerical employees.

To implement the President's upward mobility program, we provided 2,132 hours of training for the GS-4 and lower grades. This included assisting employees to secure their high school equivalencies certificates by arranging classes for them at adult education centers. Shorthand training was provided so interested employees could enter new career ladders.

Automatic data processing.—We were able to expand the program by which carriers use magnetic tape or punched cards in their reports to us. Participation in this program is increasing, resulting in savings for both the Commission and the transportation industry.

Paperwork reduction.—Installation of improved automatic photo-composing equipment for use in preparing copy for Commission decisions, and revised procedures relating to this processing have resulted in an overall reduction in processing time for printing and serving of decisions—a savings of two man-years.

Records disposal activities continued to show good results. During the year, carrier tariffs, formerly considered as permanent records, were reappraised and scheduled for disposal 20 years after cancellation. As a result of this action, some 7,800 cubic feet of records in storage became disposable, as did some 400 cubic feet of passenger tariffs housed in the ICC building. A sample of these records was selected by National Archives for permanent retention.

A series of procedural studies was undertaken following the Commission's reorganization of September 1970. These studies were directed toward the elimination of unnecessary and duplicative record-keeping and the improvement of procedures related to the processing of proceedings cases. While total savings cannot be fully evaluated yet, the realignment of functions and the design and implementation of revised procedures in connection with setting cases for hearing, process serving, docket files, printing, mail-handling and distribution, and the maintenance of case status records have produced a savings of six man-years thus far.

Our forms management program continues to produce paperwork improvements and savings through elimination of unneeded forms and redesign of forms and procedures for greater efficiency. The program accounted for some 10,600 man-hours of savings last year, much of which resulted from redesign of forms for automation and substitution of statistical data for narrative reporting.

The replacement of quarterly statistical data with the same information on a semi-annual basis will result in printing savings of \$3,000 annually.

Administrative services.—In cooperation with the General Service Administration, special efforts were made to upgrade the quality of field hearing rooms for the conduct of proceedings before the Commission's hearing examiners. Listings have been compiled of available courtrooms and hearing rooms meeting the criteria for quasi-judicial proceedings. These rooms are being assigned to ICC on request and GSA plans to include this type of facility whenever possible in future government construction.

User charges.—The Commission on May 19, 1971, revised its user charge schedule under a rulemaking proceeding in Ex Parte No. 246, *Regulations Governing Fees for Services*, 339 ICC 555.

The revised schedule, which would have become effective August 19, 1971, has been indefinitely postponed in accordance with President Nixon's Executive Order of August 15, stabilizing prices, rents, raises and salaries. The schedule includes charges ranging from \$5 to renew an authorization for highway transportation of explosives to a maximum of \$4,300 for each annual valuation of the largest pipeline carrier. The fees represent approximately one-half of the average direct costs incurred by the Commission in processing the matters involved, and the new schedule will result in revenues of approximately \$3.5 million annually.

In addition to revising its fee schedule, the Commission provided for establishment of a committee to consider what further modifications, if any, should be made in the Commission's fee schedule. The committee will include representatives from the Commission's staff, the Commission's Bar, and the regulated surface transportation industry.

LEGISLATIVE ACTIVITIES

Supplemental to this chapter is Appendix D, which indicates the progress of legislation recommended by this agency.

The Interstate Commerce Commission appeared before the Congress during the fiscal year on the following matters:

Commission Budget

The President's budget included \$28,940,000 for fiscal 1972, which provided for a total of 1,725 positions. On April 27 and June 25, 1971, the Commission appeared before the House Committee on Appropriations and the Senate Committee on Appropriations, respectively, to present statements concerning the budget request of the Commission.

Loan Guarantees

On July 8, 1970, the Commission testified before the Senate Commerce Committee on S. 4011, S. 4014 and S. 4016, three bills concerned with "loan guarantees to assist railroads in acquiring, constructing, or maintaining facilities or equipment." Although these hearings were largely devoted to a consideration of the Penn Central's financial condition, the Commission stressed the need for a loan guarantee program separate from the immediate crisis of Penn Central.

The Commission, testifying before the Subcommittee on Transportation and Aeronautics of the House Interstate and Foreign Commerce Committee on December 15, 1970, emphasized the need for Congressional action to provide a means of infusion of cash into the railroads. Considering our studies of cash flow reports, continued operation of a number of railroads seems doubtful. The Commission emphasized that a portion of the crisis regarding railroads in reorganization stemmed from provisions of the Bankruptcy Act and the protection they afford the creditors. The situation has been occasioned by the inability to

match earnings with increased costs; loan guaranty legislation was viewed by the Commission as a temporary palliative, not as a cure for the basic economic ills plaguing the railroad industry.

The Commission expressed approval of the approach to loan guarantees as set forth in H.R. 19953. Although responsibility for administering the guaranty was assigned to the Commission, we felt that the Secretary of Transportation should be the administrator. Since the Commission is the regulator of various modes of transportation, potential problems concerning conflicts of interest were foreseen. H.R. 19953 became Public Law 91-663 on January 8, 1971, and had been amended to place administrative responsibilities with the Department of Transportation.

On March 10, 1971, the Commission testified before the Subcommittee on Transportation and Aeronautics of the House Interstate and Foreign Commerce Committee regarding the Emergency Rail Services Act of 1970 and the need for additional loan guarantee legislation for railroads. The statement included the most recent information on the status of financially distressed railroads, with particular emphasis on the Penn Central Transportation Company. The Commission maintained that, because of the Penn Central's impaired cash position and the poor financial health of other railroads, Congress may be asked to grant additional amounts of Federal guarantees to railroads in reorganization. We also expressed the hope that any request of that nature be considered within the framework of the overall needs of surface transportation.

Conglomerates

In connection with our testimony on loan guarantees before the Senate Committee on Commerce July 8, 1970, we noted that the Commission's role in the Penn Central reorganization was limited to approval or disapproval of loans and the court-appointed trustees. The Commission's authority over holding companies extends only to those controlling two or more carriers. A subsidiary company of a carrier is not under Interstate Commerce Commission control for accounting and reporting purposes unless that subsidiary also controls carriers. The Pennsylvania Company has been designated a carrier since it controls several railroads. On the other hand, the Penn Central Company is a parent company and has not been designated a carrier since it acquired control only of the Penn Central Transportation Company.

The Commission informed the Committee that we were conducting

a study of the cash flow of the Penn Central since the merger in 1968. The study would include the overall financial situation of the Penn Central operation and the impact which conglomerate activities had on the transportation company's ability to maintain a viable transportation system.

On September 24, 1970, the Commission made a joint appearance with the Securities and Exchange Commission before the Special Subcommittee on Investigations of the House Interstate and Foreign Commerce Committee. The Committee made inquiries concerning the Penn Central Transportation Company's financial collapse, with particular emphasis on the respective roles of the two Commissions in the area of investor protection.

Responding to the Committee's concern over a Pennsylvania Company prospectus for a securities issue of \$100 million in sinking debentures, the Commission explained that the prospectus was inadequate and that we had requested additional information from the company. Since an amended application was never filed, no order for approval of the issuance has been entered.

Regarding the Commission's protection of investors in investment companies under our jurisdiction, we noted that additional authority would be required in several areas and that legislation for this purpose had been drafted. This legislation would increase our ability to insure that conglomerate activities do not disrupt the maintenance of a viable transportation system. The Commission would be granted authority in situations, for example, where a non-transportation company acquires control of a single company. This legislation was sent to the Congress October 6, 1970, and was introduced as H.R. 19720.

Water Carrier Mixing Rule

On September 22, 1970, the Subcommittee on Surface Transportation of the Senate Committee on Commerce held hearings on H.R. 8298, a bill to amend section 303(b) of the Interstate Commerce Act. Section 303(b) contains the so-called "bulk commodities exemption," which provides that none of the regulatory requirements apply to the transportation of commodities in bulk so long as not more than three such commodities are transported in a vessel, including a tow of barges. The Commission has interpreted this exemption as applying only when the vessel contains no non-bulk commodities with the bulk commodities. The subject bill would abrogate this interpretation and permit the

concurrent transportation of bulk and non-bulk commodities, moving under the 303(b) exemption, subject to the requirement that there be disclosure of the charges for the transportation of the bulk commodities, as provided by the provisions of section 316 of the act.

In a September 18, 1970 letter to Chairman Vance Hartke, the Commission stated that it would prefer total repeal of section 303(b) since this would subject all the affected traffic uniformly to the economic regulation of the Commission.

However, the Commission felt that although H.R. 8298 would fall short of that goal, it would amend section 303(b) in a desirable direction. The Commission favored the requirement that, if transportation of bulk commodities is to be free of any other regulatory restraint, at the very minimum there should be full disclosure of the rates and charges under which such exempt transportation is performed. The subject bill would accomplish this by requiring all water carriers to publish rates and charges for the transportation of exempt bulk commodities in tariffs which meet the requirement of section 306 of the act.

The Commission also found merit in fostering the maximum utilization of water carrier equipment and in not impeding the efficiency and economy of water carrier operations by precluding the mixing of bulk and non-bulk commodities in a single vessel under the differing regulatory requirements that now apply. Thus, although the Commission has consistently favored the repeal of section 303(b), it stated that enactment of the proposed legislation would be acceptable. H.R. 8298, with certain amendments became Public Law 91-590 on December 28, 1970.

Railpax

On April 22, 1971, the Commission appeared before the Subcommittee on Transportation and Aeronautics of the House Interstate and Foreign Commerce Committee to testify on the provisions of Public Law 91-518, the Rail Passenger Service Act of 1970. We outlined our specific responsibilities under that act, the first being to review the basic rail system as proposed by the Secretary of Transportation. Most of the Commission's recommended additions to the system were adopted by the Department of Transportation.

The second responsibility involves evaluation of the system at the end of the first year, and every year thereafter. The Commission instituted a rulemaking proceeding to establish guidelines for these reports.

In disputes between the railroads and the Amtrak corporation, the Commission is responsible for determining the contract price and the compensation as to facilities and service agreements.

On May 13, 1971, the Commission testified before the Subcommittee on Transportation and Aeronautics of the House Interstate and Foreign Commerce Committee on H.R. 1074. This bill would amend the Interstate Commerce Act to give motor carriers the option of filing their annual reports either on a calendar-year basis or on the basis of a thirteen-period accounting year.

Under existing law, carriers of all modes under the Commission's jurisdiction are required to file their annual reports on a calendar-year basis. They may, however, use the thirteen-period basis for internal accounting purposes and for their quarterly reports to the Commission. However, if they elect to use the thirteen-period basis for these purposes they must make certain adjusting entries in the accounts to convert them to a calendar-year basis. These adjustments would not be necessary if H.R. 1074 were enacted.

The Commission advised the Committee that unless we prescribe rules for maintaining uniformity, this legislation would create problems for the agency and others relying on it for data.

Cargo Theft

On July 9, 1971, the Commission testified before the Senate Select Committee on Small Business on the problem of increased cargo thefts.

The Commission stated that it had instituted a rulemaking proceeding proposing that motor carriers of property file with the Commission quarterly reports of freight loss and damage claims. The tentative report form calls for motor carriers to report loss and damage claims paid, with particular emphasis on claims resulting from theft and hijacking. Hopefully, this new requirement will provide a broader statistical basis for understanding the nature, extent and effect of hijacking in the motor carrier industry. Such an approach may also be extended to cover class I railroads (Quarterly Report of Freight Losses and Damage Claims, Docket No. 35345).

The Commission explained that, although it knew of no specific instances of reduced service in the rail industry, three motor carriers have filed applications (Released Rate Application MC-1225, MC-1228, MC-1239) seeking authority to limit their liability with respect to certain products. The applications alleged that theft and pilferage had become so extensive that cargo insurance coverage was becoming

difficult to obtain. They further alleged that the costs incurred from both actual losses and increased insurance rates make it difficult for carriers to file rates high enough to be compensatory to the carrier and still comply with the reasonableness requirements of section 216(b) of the Interstate Commerce Act.

Freight Cars

On June 16, 1971, the Commission appeared before the Special Subcommittee on Freight Car Shortage of the Senate Commerce Committee to testify on S. 1415, S. 1729, S. 1730 and S. 1731, four bills aimed at alleviating the freight car shortage problem.

The Commission listed the steps it has taken under existing authority to deal with this chronic problem: (1) the issuance and enforcement of car service orders; (2) an order in Ex Parte No. 241 approving a railroad-sponsored formula to determine adequate car ownership and making mandatory certain car service rules designed to expedite the return of cars to the owning roads; (3) an order in Ex Parte No. 252 (Sub-No. 1) imposing an incentive per diem charge on general service boxcars; and (4) a press release informing consignees of their obligation to completely unload all foreign matter connected with the inbound carload shipment by rail. Despite these efforts, the freight car situation remains critical and the Commission expressed the belief that additional governmental assistance is needed.

S. 1415 would authorize the Secretary of Defense to purchase and construct a large number of general purpose boxcars for the use of the Defense Department. The Commission expressed support of this legislation with several amendments, but viewed the bill as only supplemental to the others being considered.

S. 1729 and S. 1730 both provide for the formation of a quasi-public freight car corporation. The crucial difference between the two is that S. 1729 provides that the corporation should be considered a railroad under 1(10)-1(17) of the Interstate Commerce Act, while S. 1730 makes no such provision. Of the two bills, the Commission felt that with certain amendments, S. 1729 was the more desirable.

S. 1731 provides for federal loan guarantees for the acquisition of freight cars and other rolling stock. The Commission pointed out several drawbacks to this bill and explained that, if enacted, it should be supplemental to either S. 1729 or S. 1730.

The Commission presented an alternative proposal in the form of a

draft bill incorporating what it considered to be the most desirable features of S. 1729 and S. 1730, with modifications.

Financial Condition of Railroads

On July 21, 1971, the Commission appeared before the Subcommittee on Surface Transportation of the Senate Committee on Commerce to set forth its independent evaluation of the railroad industry's condition and the need for legislation.

The Commission presented six specific legislative changes to deal with the problems of the railroad industry:

Conglomerates.—recommended that the Interstate Commerce Act be amended to give the Commission authority to oversee the acquisition and control of carriers by noncarriers and the common control of carrier and noncarrier enterprises.

Guaranteed Loans.—recommended that Part V of the act be extended by the Congress, but appropriately revised so as to vest the authority for its administration in the Secretary of Transportation rather than the Commission.

Restructuring of Bankrupt Railroads.—recommended that new legislation be enacted authorizing the Commission to restructure essential railroad service to insure its continued operation when the bankruptcy of a railroad threatens the cessation of such service.

Freight Car Supply.—recommended that legislation be enacted to enable rail carriers to acquire the use of freight cars through a federally chartered, quasi-public corporation, or to acquire freight cars directly through guaranteed loans, or a RFC-type program.

Section 22 Rates.—recommended that section 22 of the act be amended to eliminate free or reduced rates for government traffic except in time of war or other national emergency, and except as to commodities exempt as to other carriers.

Through Routes and Joint Rates.—recommended that the act be amended to extend the Commission's authority to require the establishment of through routes and joint rates to all carriers except freight forwarders subject to its jurisdiction.

In addition to presenting these six specific proposals, the Commission pointed out five other areas requiring attention:

Legislation authorizing railroads to amortize improvements to roadway property, and provide for investment tax credits.

Legislation prohibiting discriminatory state and local taxation of roadway real property.

Revisions for railroad work rules, preceded perhaps by a special Presidential study commission.

Congressional consideration of appropriate user charges.

Consideration of research and development programs for the railroads aided by government funding.

APPENDIX A—COMMISSION ORGANIZATION

There are five principal offices and five bureaus of the Commission, the heads of which report to the Chairman via the channels indicated on the organizational chart.

STAFF OFFICIALS

Office of the Chairman:

Public Information Officer Warner L. Baylor

Office of the Managing Director:

Managing Director Nyle M. Jackson

Assistant Managing Director Robert L. Rebein

Assistant to the Managing Director—

Field Operations James L. Barbour

Director of Personnel Curtis F. Adams

Office of the Secretary—Congressional Relations:

Secretary Robert L. Oswald

Assistant Secretary Joseph M. Harrington

Office of the General Counsel:

General Counsel Fritz R. Kahn

Deputy General Counsel Arthur J. Cerra

Legislative Counsel Larry T. Reida

Office of Proceedings:

Director Sheldon Silverman

Associate Director Thaddeus W. Forbes

Deputy Director, Section of Finance Richard Block, Jr.

Deputy Director, Section of Operating Rights Henry U. Snavelly

Deputy Director, Section of Rates Joseph T. Fittipaldi

Office of Hearings:

Chief Hearing Examiner Robert C. Bamford

Assistant Chief Hearing Examiner James E. Hopkins

Assistant Chief Hearing Examiner William J. Bateman

Bureau of Accounts:

Director Matthew Paolo

Assistant Director John A. Grady

Bureau of Economics:

Director Edward Margolin

Assistant Director Robert G. Rhodes

Bureau of Enforcement:

Director	Bernard A. Gould
Assistant Director	John H. O'Brien
Assistant Director	Daniel M. O'Donoghue

Bureau of Operations:

Director	Robert D. Pfahler
Assistant Director	Lewis R. Teeple

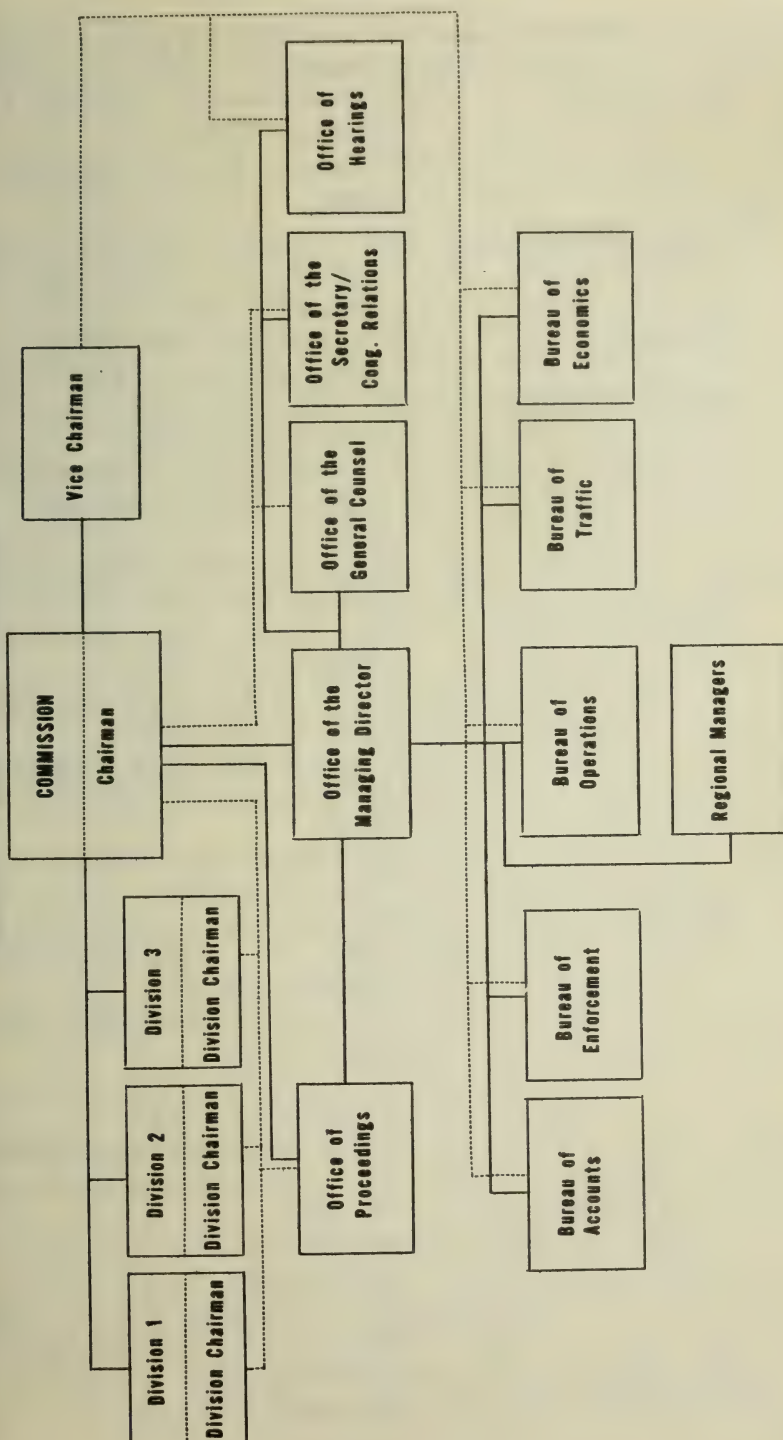
Bureau of Traffic:

Director	Martin E. Foley
Assistant Director	Ernest R. Olson

Directory of Interstate Commerce Commission Field Offices

<i>Region</i>	<i>Territory</i>	<i>Regional headquarters and field office addresses</i>
1	Regional headquarters	Robert L. Abare, Regional Manager, Room 2211-B, John F. Kennedy Bldg., Government Center, Boston, Mass. 02203.
Connecticut		324 U.S. Post Office, 135 High St., Hartford, Conn. 06101.
Maine		305 U.S. Post Office and Courthouse, 76 Pearl St., Portland, Maine 04112. Mail address: Post Office Box 167, P.S.S.
Massachusetts		John F. Kennedy Bldg., Room 2211-B, Government Center, Boston, Mass 02203. 338-342 Federal Bldg., 436 Dwight St. Springfield, Mass. 01103.
New Hampshire		424 Federal Bldg., 55 Pleasant St., Con- cord, N.H. 03301. 902 Federal Bldg., 970 Broad St., New- ark, N.J. 07102. 204 Carroll Bldg., 428 East State St., Trenton, N.J. 08608.
New York		518 New Federal Bldg., Maiden Lane and Broadway, Albany, N.Y. 12207. 518 Federal Bldg., 121 Ellicott St., Buf- falo, N.Y. 14203. 26 Federal Plaza, Room 1807, New York, N.Y. 10007. O'Donnell Bldg., Room 104, 301 Erie Blvd., West, Syracuse, N.Y. 13202.

INTERSTATE COMMERCE COMMISSION



Directory of Interstate Commerce Commission Field Offices—Continued

<i>Region</i>	<i>Territory</i>	<i>Regional headquarters and field office addresses</i>
	Rhode Island	187 Westminster St., Room 402, Providence, R.I. 02903.
	Vermont	52 State St., Room 5, Montpelier, Vt. 05602.
2	Regional headquarters	Fred E. Cochran, Regional Manager, 1518 Walnut St., Room 1600, Philadelphia, Pa. 19102.
	Delaware	See nearest ICC Field Office in New Jersey, Maryland, or Pennsylvania.
	District of Columbia	12th and Constitution Ave., N.W., Washington, D.C. 20423.
	Maryland	814-B Federal Bldg., Charles Center, 31 Hopkins Plaza, Baltimore, Md. 21201.
		227 Old Post Office, 129 East Main St., Salisbury, Md. 21801.
	Ohio	5514-B Federal Bldg., 550 Main St., Cincinnati, Ohio 45202.
		181 Federal Bldg., 1240 East 9th St., Cleveland, Ohio 44199.
		255 Federal Bldg. and U.S. Courthouse, 85 Marconi Blvd., Columbus, Ohio 43215.
		5234 Federal Bldg., 234 Summit St., Toledo, Ohio 43604.
	Pennsylvania	508 Federal Bldg., 228 Walnut St., Harrisburg, Pa. 17108. Mail address: Post Office Box 869.
		1518 Walnut St., Room 1600, Philadelphia, Pa. 19102.
		2111 Federal Bldg., 1000 Liberty Ave., Pittsburgh, Pa. 15222.
		309 U.S. Post Office, North Washington Ave. and Linden St., Scranton, Pa. 18503.
	Virginia	10-502 Federal Bldg., 400 North 8th St., Richmond, Va. 23240.
		5104 F. B. Thomas Bldg., 215 Campbell Ave. S.W., Roanoke, Va. 24011.
	West Virginia	3108 Federal Bldg., 500 Quarrier St., Charleston, W. Va. 25301.

Directory of Interstate Commerce Commission Field Offices—Continued

<i>Region</i>	<i>Territory</i>	<i>Regional headquarters and field office addresses</i>
		416 Old Post Office Bldg., 12th and Chapline Sts., Wheeling, W. Va. 26003.
3 Regional headquarters		James B. Weber, Regional Manager, 1252 West Peachtree St., N.W., Room 300, Atlanta, Ga. 30309.
Alabama		2121 Bldg., Room 814, 2121 8th Ave. North, Birmingham, Ala. 35203.
Florida		288 Federal Bldg., 400 West Bay St., Jacksonville, Fla. 32202. Mail address: Post Office Box 35008. 105 Cox Bldg., 5720 S.W. 17th St., Miami, Fla. 33155.
Georgia		1252 West Peachtree St., N.W., Room 300, Atlanta, Ga. 30309.
Kentucky		Bakhaus Bldg., Room 222, 1500 West Main St., Lexington, Ky. 40505. 426 U.S. Post Office, 601 West Broadway, Louisville, Ky. 40202.
Mississippi		145 East Amite Bldg., Room 212, Jackson, Miss. 39201.
North Carolina		BSR Bldg., Suite 417, 316 East Morehead St., Charlotte, N.C. 28202. Federal Bldg., Room 624, 310 New Bern Ave., Raleigh, N.C. 27611. Mail address: Post Office Box 26896.
South Carolina		300 Columbia Bldg., 1200 Main St., Columbia, S.C. 29201.
Tennessee		933 Federal Bldg., 167 North Main St., Memphis, Tenn. 38103. 1808 West End Bldg., Suite 803, Nashville, Tenn. 37203.
4 Regional headquarters		Charles W. Buckner, Regional Manager, Everett McKinley Dirksen Bldg., Room 1086, 219 South Dearborn St., Chicago, Ill. 60604.
Illinois		Everett McKinley Dirksen Bldg., Room 1086, 219 South Dearborn St., Chicago, Ill. 60604. 476 Land of Lincoln Bldg., 325 West Adams St., Springfield, Ill. 62704.

Directory of Interstate Commerce Commission Field Offices—Continued

<i>Region</i>	<i>Territory</i>	<i>Regional headquarters and field office addresses</i>
Indiana		Century Bldg., 8th Floor, 36 South Pennsylvania St., Indianapolis, Ind. 46204. 345 West Wayne St., Room 204, Fort Wayne, Ind. 46802.
Michigan		David Broderick Tower Bldg., Room 1110, 10 Witherell St., Detroit, Mich. 48226. 225 Federal Bldg., 325 West Allegan St., Lansing, Mich. 48933.
Minnesota		448 Federal Bldg., and U.S. Courthouse, 110 South 4th St., Minneapolis, Minn. 55401.
North Dakota		Federal Bldg., and U.S. Post Office, 657 Second Ave. North, Fargo, N. Dak. 58102. Mail address: Post Office Box 2340.
South Dakota		Federal Bldg., Room 369, Pierre, S. Dak. 57501.
Wisconsin		139 West Wilson St., Room 206, Madison, Wis. 53703. 135 West Wells St., Room 807, Milwaukee, Wis. 53203.
5 Regional headquarters		Harold M. Gregory, Regional Manager, 9A27 Fritz Garland Lanham Federal Bldg., 819 Taylor St., Fort Worth, Tex. 76102.
Arkansas		2519 Federal Bldg., Little Rock, Ark. 72201.
Iowa		677 Federal Bldg., 210 Walnut St., Des Moines, Iowa 50309. 304 U.S. Post Office, Sioux City, Iowa 51101.
Kansas		234 Federal Bldg., Topeka, Kans. 66603. 501 Petroleum Bldg., 221 South Broadway, Wichita, Kans. 67202.
Louisiana		T-4009 Federal Bldg., and U.S. Post Office, 701 Loyola Ave., New Orleans, La. 70113.
Missouri		1100 Federal Bldg., 911 Walnut St., Kansas City, Mo. 64106.

Directory of Interstate Commerce Commission Field Offices—Continued

<i>Region</i>	<i>Territory</i>	<i>Regional headquarters and field office addresses</i>
		210 North 12th St., Room 1465, St. Louis, Mo. 63101.
Nebraska		320 Federal Bldg. and U.S. Courthouse, 129 North 10th St., Lincoln, Nebr. 68508. 711 Federal Bldg., 106 South 15th St., Omaha, Nebr. 68102.
Oklahoma		240 Old U.S. Post Office and Court- house, 215 Northwest 3d St., Okla- homa City, Okla. 73102.
Texas		1012 Herring Plaza, 317 East 3d St., Amarillo, Tex. 79101. Mail address: Herring Plaza Box H-4395. 1100 Commerce St., Rm. 13C12, Dallas, Tex. 75202. 9A27 Fritz Garland Lanham Federal Bldg., 819 Taylor St., Fort Worth, Tex. 76102. 8610 Federal Bldg. and U.S. Courthouse, 515 Rusk Ave., Houston, Tex. 77002. Mail address: P.O. Box 61212. 301 Broadway Bldg., Room 206, San An- tonio, Tex. 78205.
6 Regional headquarters		Alfred E. Rathert, Regional Manager, 13001 Federal Bldg., 450 Golden Gate Ave., San Francisco, Calif. 94102. Mail address: Post Office Box 36004.
Alaska		G-31 Federal Bldg., Anchorage, Alaska 99510. Mail address: Post Office Box 1532.
Arizona		3427 Federal Bldg., 230 North 1st Ave., Phoenix, Ariz. 85025.
California		7708 Federal Bldg., 300 North Los An- geles St., Los Angeles, Calif. 90012. 13001 Federal Bldg., 450 Golden Gate Ave., San Francisco, Calif. 94102. Mail address: Post Office Box 36004.
Colorado		2022 Federal Bldg., 1961 Stout St., Den- ver, Colo. 80202.
Idaho		455 Federal Bldg. and U.S. Courthouse, 550 West Fort St., Boise, Idaho 83702.

Directory of Interstate Commerce Commission Field Offices—Continued

<i>Region</i>	<i>Territory</i>	<i>Regional headquarters and field office addresses</i>
	Montana	251 U.S. Post Office, Billings, Mont 59101.
	Nevada	203 Federal Bldg., 705 North Plaza St. Carson City, Nev. 89701.
	New Mexico	10515 U.S. Courthouse and Post Office 500 Gold Ave., S.W., Albuquerque N. Mex. 87101.
	Oregon	450 Multnomah Bldg., 319 S.W. Pine St. Portland, Oreg. 97204.
	Utah	5239 Federal Bldg., 125 South State St. Salt Lake City, Utah 84111.
	Washington	6130 Arcade Bldg., 1319 2d Ave., Seattle Wash. 98101.
	Wyoming	1006 Federal Bldg. and Post Office, 100 East B Street, Casper, Wyo. 82601.

APPENDIX B—COMMISSION WORKLOAD

TABLE 1.—Distribution by method of disposition of proceedings cases closed during fiscal year 1971 compared to fiscal years 1969 and 1970 and average time in months from date of filing to closing

	Dismissed or discontinued					
	Fiscal year 1969 Cases	Months	Fiscal year 1970 Cases	Months	Fiscal year 1971 Cases	Months
Orally-heard rail merger cases	....	....	....	....	....	....
Rail finance cases (other than orally-heard rail merger cases)	36	7.3	30	6.3	39	8.9
Motor carrier finance cases	48	8.6	32	6.3	22	9.2
Motor carrier operating authority cases	434	6.9	458	6.6	618	7.2
Motor carrier complaint cases	490	3.9	548	4.1	559	3.3
Water carrier cases	1	5.0	3	11.3	5	6.0
Formal dockets cases (rate complaints and investigations)	49	5.7	62	12.5	55	5.7
Investigation and suspension cases (motor)	808	1.5	836	1.4	849	1.3
Investigation and suspension cases (rail)	41	1.7	61	2.5	53	2.7
All other cases	12	6.8	11	5.5	11	8.9
Total all types	1,919	3.8	2,041	3.8	2,211	3.9

	Decided by effective recommended report and order					
	Fiscal year 1969 Cases	Months	Fiscal year 1970 Cases	Months	Fiscal year 1971 Cases	Months
Orally-heard rail merger cases	....	....	....	....	2	17.0
Rail finance cases (other than orally-heard rail merger cases)	17	14.2	9	11.7	17	13.9
Motor carrier finance cases	20	12.9	19	13.8	25	13.9
Motor carrier operating authority cases	631	10.1	622	10.9	490	11.6
Motor carrier complaint cases	21	13.8	11	11.5	13	14.6
Water carrier cases	2	16.0	1	7.0	....	....
Formal dockets cases (rate complaints and investigations)	31	9.4	30	9.9	25	10.3
Investigation and suspension cases (motor)	....	....	4	9.5	....	....
Investigation and suspension cases (rail)	....	....	1	21.0	1	5.0
All other cases	1	7.0	3	12.3	3	12.0
Total all types	723	10.4	700	11.0	576	11.8

	After service of initial report Decided by final report					
	Fiscal year 1969		Fiscal year 1970		Fiscal year 1971	
	Cases	Months	Cases	Months	Cases	Months
Orally-heard rail merger cases	3	18.7	1	45.0	2	21.5
Rail finance cases (other than orally-heard rail merger cases)	34	11.7	21	17.8	28	15.5
Motor carrier finance cases	82	16.7	41	23.2	43	20.9
Motor carrier operating authority cases	1,251	15.9	920	19.8	841	17.5
Motor carrier complaint cases	27	21.1	28	19.7	24	23.5
Water carrier cases	18	34.6	3	23.0	3	19.3
Formal dockets cases (rate complaints and investigations)	67	17.8	70	20.5	51	20.9
Investigation and suspension Cases (motor)	----	----	3	25.0	1	15.0
Investigation and suspension cases (rail)	10	8.5	5	20.0	3	29.3
All other cases	30	17.2	19	32.6	17	34.2
Total all types	1,522	16.2	1,111	20.2	1,013	18.3

	Decided by final report without a previous initial report						Total cases		
	Fiscal year 1969		Fiscal year 1970		Fiscal year 1971		Fiscal year 1969	Fiscal year 1970	Fiscal year 1971
	Cases	Mos.	Cases	Mos.	Cases	Mos.			
Orally-heard rail merger cases	----	----	----	----	----	----	3	1	4
Rail finance cases (other than orally-heard rail merger cases)	402	2.8	382	2.8	356	2.9	489	442	440
Motor carrier finance cases	241	5.4	239	6.4	221	6.4	391	331	311
Motor carrier operating authority cases	2,870	8.4	3,284	6.4	3,280	7.0	5,186	5,284	5,229
Motor carrier complaint cases	7	10.1	18	7.2	15	8.5	545	605	611
Water carrier cases	5	5.9	16	3.3	11	5.3	26	23	19
Formal dockets cases (rate complaints and investigations)	3	16.1	26	25.6	5	8.8	150	188	136
Investigation and suspension Cases (motor)	90	6.6	86	5.6	78	6.3	898	929	928
Investigation and suspension cases (rail)	6	7.6	26	7.7	37	9.0	57	93	94
All other cases	22	12.8	35	9.2	44	8.3	65	68	75
Total all types	3,646	7.2	4,112	6.2	4,047	6.7	7,810	7,964	7,847

TABLE 2.—Proceedings cases opened and closed during fiscal year 1971 as compared to prior calendar and fiscal years

	Calendar year 1967	Calendar year 1968	Calendar year 1969	Calendar year 1970
Pending beginning of year	6,773	5,390	4,704	5,421
Openings during year	7,384	7,436	8,223	8,250
Closings during year	8,767	8,122	7,506	8,001
Pending end of year	5,390	4,704	5,421	5,670

	Fiscal year 1968	Fiscal year 1969	Fiscal year 1970	Fiscal year 1971
Pending beginning of year	6,108	5,264	4,962	5,332
Openings during year	7,465	7,508	8,334	8,732
Closings during year	8,309	7,810	7,964	7,847
Pending end of year	5,264	4,962	5,332	6,217

TABLE 3.—Informal proceedings

	1969	1970	1971
Applications for motor temporary authority:			
Filed	6,404	8,018	8,971
Disposed of	6,374	8,022	8,943
Pending at end of year	52	48	76
Petitions in applications for motor carrier temporary authority:			
Filed	682	815	989
Disposed of	662	819	968
Pending at end of year	69	65	86
Applications to deviate from regular routes:			
Filed	355	278	207
Disposed of	393	285	211
Pending at end of year	35	28	24
Petitions in deviation filings:			
Filed	10	7	7
Disposed of	4	2	0
Pending at end of year	4	2	0
Proceedings to revoke operating rights without hearing:			
Instituted	597	805	837
Disposed of	763	795	801
Pending at end of year	107	115	151

TABLE 4.—Tariff and schedules, fiscal year 1971

	Received	Criticized	Rejected
Freight:			
Common carrier, tariffs:			
Rail	57,932	2,991	368
Motor	196,570	11,763	3,545
Water	6,944	207	80
Pipeline	1,866	9	5
Freight forwarder	9,725	690	50
Total	273,037	15,660	3,957
Contract carrier, schedules:			
Motor	7,127	1,547	384
Water	89	0	0
Total	7,216	1,547	384
Total freight	280,253	17,207	4,341
Passenger, tariffs:			
Common carrier:			
Rail	3,636	129	82
Motor	10,400	1,735	234
Water	47	13	5
Total	14,083	1,877	321
Contract carrier: Motor	55	5	0
Express, tariffs:			
Rail	260	33	0
Motor	213	27	2
Total	528	65	2
Total Passenger and Express	14,611	1,942	323
Grand Total	294,864	19,149	4,664

NOTES. Also filed were 30,894 quotations or tenders under Section 22 of the Act for government transportation of property or persons at reduced rates.

Applications requesting permission to change rates or other tariff provisions on less-than-statutory notice, or to depart from the tariff-publishing rules, numbered 7,226. A total of 3,665 copies of contracts and amendments to existing contracts between motor contract carriers and shippers were filed, while 24,315 contracts and amendments between freight forwarders and motor common carriers were filed pursuant to section 409 of the Act.

TABLE 5.—Fourth section board

	Number	Petitions for modification of orders
Applications:		
On hand beginning of year	22	0
Received during year	246	3
Total	268	3
Disposed of during year		
Granted	236	2
Denied	5	1
Withdrawn	4	0
Total	245	3
Pending at end of year	23	0

Petitions for reconsideration of Board's Action, 1. Applications protested against granting of relief, 4. Relief withheld pending hearings in applications, 2.

TABLE 6.—Released rates board

	Number	Petitions for modification of orders
Applications:		
On hand beginning of year	5	0
Received during year	56	6
Reopened during year	2	0
Total	63	6
Disposed of during year:		
Granted	37	6
Denied	4	0
Withdrawn	4	0
Total	45	6
Pending at end of year	18	0

Petitions for reconsideration of Board's action, 3. Applications protested against granting of relief, 5. Relief withheld pending hearings in applications, 3.

APPENDIX C.—ENFORCEMENT ACTIVITIES

TABLE 1.—Summary, July 1, 1970 through June 30, 1971

	Rail	Motor	Other	Total
Field Investigations:				
On hand beginning of year	251	632	14	897
Commenced during year	121	867	1	989
Concluded during year	132	904	1	1037
Pending at end of year	240	595	14	849
Court Proceedings:				
On hand beginning of year	65	450	6	521
Commenced during year	54	631	1	686
Concluded during year	¹ 54	² 619	5	678
Pending at end of year	65	462	2	529
Civil Claims Settlements:				
On hand beginning of year	2	390	³	392
Commenced during year	45	496	³	541
Concluded during year	33	422	³	455
Pending at end of year	14	464	³	478
Commission Proceedings:				
On hand beginning of year	12	181	8	201
Commenced during year	7	110	4	121
Pending at end of year	7	109	1	117
	12	182	11	205

¹ Includes 33 civil claims cases.

² Includes 377 civil claims cases resulting in 422 separate settlements.

³ Not available.

TABLE 2.—Cases concluded or settled and monetary sanctions imposed

	Rail	Motor, Water, and Forwarder	Total
Cases concluded in court	21	¹ 236	257
Amount imposed	\$91,000	\$157,300	\$248,300
Civil claims settlements	33	422	455
Amount imposed	\$927,350	\$567,315	\$1,494,665
Total fines and forfeitures	54	597	651
Total amount imposed	\$1,018,350	\$724,615	\$1,742,965

¹ Includes 61 permanent injunction cases and 175 cases for monetary sanctions.

APPENDIX D—PROGRESS OF LEGISLATION RECOMMENDED BY THE COMMISSION 92d CONGRESS

1. That section 1(16) of the Interstate Commerce Act be amended to authorize the Commission, in the case of failure of proper public service by a common carrier by railroad, to issue directions with respect to the handling, routing, and movement of the traffic of such carrier and its distribution over such carrier's lines or over other lines of roads.

S. 2494 and H.R. 9748 were introduced to implement the Commission's recommendation.

2. That the Interstate Commerce Act be amended to give the Commission authority to oversee the acquisition and control of carriers by non-carriers and the common control of carrier and non-carrier enterprises.

S. 2630 and H.R. 11030 were introduced to implement the Commission's recommendation.

3. That part V of the Interstate Commerce Act be extended by the Congress, but appropriately revised so as to vest the authority for its administration with the Secretary of Transportation rather than the Commission.

S. 2636 and H.R. 11027 were introduced to implement the Commission's recommendation.

4. That new legislation be enacted authorizing the Commission to restructure essential railroad service to insure its continued operation when bankruptcy of a railroad threatens the cessation of such service.

S. 2629 and H.R. 11029 were introduced to implement the Commission's recommendation.

5. That sections 22 of the Interstate Commerce Act be amended to eliminate free or reduced rates for government traffic except in time of war or other national emergency, and except as to commodities exempt as to other carriers.

S. 2627 and H.R. 11028 were introduced to implement the Commission's recommendation.

6. That the Interstate Commerce Act be amended to extend the Commission's authority to require the establishment of through routes and joint rates to all carriers, except freight forwarders, subject to its jurisdiction.

S. 2628 and H.R. 11031 were introduced to implement the Commission's recommendation.

7. The Commission also submitted a draft bill containing a series of proposals as set forth below. No further action has been taken.

(a) That sections 12(1), 204(a)(6), 304(a), and 403(a) of the Interstate Commerce Act be amended so as to enable the Commission to exempt certain transportation from regulation.

(b) That section 20a of the Interstate Commerce Act be amended so as to provide other carriers subject to our jurisdiction with the same exemptions in offering small notes or other securities issues as now is applicable to motor carriers pursuant to section 214 of the act.

(c) That part III of the Interstate Commerce Act be amended by adding a new section 303(m) which would exempt transportation authorized by the Secretary of the Interior in and about national parks and monuments from certification or economic regulation.

(d) That section 1(15) of the Interstate Commerce Act be amended so as to permit the imposition of a penalty charge upon a railroad's use of the cars of another line whenever an emergency shortage of such equipment exists or is threatened.

(e) That section 212(a) of the Interstate Commerce Act be amended: (1) to make motor carrier operating authorities subject to suspension, change, or revocation for wilful failure to comply with any provision of Chapter 39, title 18, United States Code, Explosives and Other Dangerous Articles; and (2) to provide that the Commission may, upon reliable notice, suspend motor carrier operating authority for failure to comply with insurance regulations issued by it pursuant to section 215 thereof.

(f) That a new section 1(23)(b) be enacted so as to empower the Commission to authorize the acquisition of one railroad by another pending a final determination of an underlying permanent application.

(g) That a new section 1(23)(a) be enacted so as to empower the Commission to grant temporary operating authority to railroads, pending the Commission's determination of corresponding application for permanent operating authority.

(h) That section 216(g) of the Interstate Commerce Act be amended so as to provide this Commission with statutory authority to impose refund provisions in proceedings involving proposed increases in rates or charges of motor carriers.

(i) That section 4 of the Interstate Commerce Act be amended so as to give the Commission discretion to allow long- and short-haul departures when investigation is unnecessary.

(j) That section 1114 of Chapter 51, title 18, of the United States Code be amended so as to include officers and employees of the Interstate Commerce Commission.

(k) That section 17(2) of the Act be amended so as to authorize the Commission to delegate to qualified individual employees, including transportation economists and specialists, those matters which have not involved

the taking of testimony at a public hearing or the submission of evidence by opposing parties in the form of affidavits.

(1) That section 20a(12) of the Interstate Commerce Act be amended so as to make unnecessary our approval of interlocking directorates between affiliated carriers, and, at the same time, clarify that Commission approval must be obtained for interlocking directorates accomplished through different individuals representing a business entity.

(m) That section 660 of the Criminal Code (18 U.S.C. §660) should be amended so as to make it applicable to contract carriers engaged in interstate commerce.

(n) That sections 16(9) and (10) of the Interstate Commerce Act be amended so as to provide civil penalties whenever there is a failure to comply with any rules, order, or regulation of this Commission not now covered.

(o) That section 10(1), (2), (3), and (4) of the Interstate Commerce Act be amended so as to provide for minimum fines for violations under part I of the Act.

(p) That section 421(a) of the Interstate Commerce Act be amended so as to provide a minimum fine for first offenses by freight forwarders.

(q) That section 1(1) of the Interstate Commerce Act be amended to provide the Commission with jurisdiction over transportation in the United States when the movement is between two foreign countries through the United States.

That the Interstate Commerce Act be amended to grant certain additional authority to the Interstate Commerce Commission regarding conglomerate holding companies involving carriers subject to the jurisdiction of the Commission and noncarriers. H.R. 19720 was introduced to implement the Commission's recommendation. No further action was taken before adjournment. (90th Congress, 2d session).

APPENDIX E—PUBLICATIONS

FINANCIAL AND TRAFFIC STATISTICS¹ Annual

- *Transport Statistics in the United States. Detailed data on traffic, operations, equipment, finances, and employment for carriers subject to the Interstate Commerce Act (rail carriers, motor carriers, water carriers, oil pipelines, freight forwarders, Railway Express, Inc., and private car owners). Available by releases: Rail, first release, \$2.25, second release, \$2.00, motor, first release, \$0.45, second release, \$1.25, and third release, \$0.50; water carriers, first release, \$0.50, second release, \$0.35, oil pipelines, \$0.45, freight forwarders, \$0.25; private car lines, \$0.25; Railway Express, Inc., and electric railways included with first release rail.
- *Freight Commodity Statistics, Class I Railroads in the United States. Carloads and tons of revenue freight originated, terminated, and received from connecting carriers, and gross freight revenue, \$0.55.
- *Motor Carrier Freight Commodity Statistics, Class I Common and Contract Carriers of Property. Number of truckloads and tons of freight originated, terminated, and delivered to connecting carriers, and gross freight revenue \$1.00.

Selected Statistics of Class III Motor Carriers of Property.

A-300—Wage Statistics of Class I Railroads in the United States—Calendar Year. Number of employees, service hours and compensation by occupation: Professional, clerical, and general; maintenance of way and structures; maintenance of equipment and stores; etc.

Semi-Annual

(First issue: Cumulative data for period, January-June; Second issue: Cumulative data for period, January-December)

- 100—Financial and Operating Statistics of Class I Railroads in the United States. Operating revenues and expenses; selected income and balance sheet items; selected traffic, service and equipment statistics.
- 300—Wage Statistics of Class I Railroads in the United States. Number of employees, service hours, and compensation by occupation.

¹ Prepared by the Bureau of Accounts.

*Indicates publications obtained from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402, at prices indicated. (Subject to change.) Other publications obtained from the Section of Administrative Services, Interstate Commerce Commission, Washington, D.C. 20423, without charge. (Subject to change.)

- 600—Transportation Revenue and Traffic of Large Oil Pipeline Companies. Transportation revenue and number of barrels of oil originated and received from connections, present and preceding year.
- 650—Revenue and Traffic of Class A and B Water Carriers. Freight revenue, number of tons of revenue freight carried, revenue ton-miles, passenger revenue, and number of passengers carried.
- 750—Revenues, Expenses, Other Income, and Statistics of Class I Motor Carriers of Passengers. Passenger operating revenues (intercity, local and suburban, charter or special service); expenses, other income, miles of highway over which intercity regular route operations conducted, vehicle-miles operated by buses in intercity, local and suburban, charter or special service, number of revenue passengers carried by buses for each route operation, man-hours paid for, and compensation of drivers.
- 800—Revenues, Expenses, Other Income, and Statistics of Class I Motor Carriers of Property. Operating revenues (intercity, common and contract, local cartage, intercity transportation for other class I and class II motor carriers), expenses, other income, deductions and income taxes, truck- and tractor-miles operated in intercity freight service by common and contract carriers, tons of revenue freight transported in intercity service, operating ratio, report of manhours paid for, and compensation of drivers and helpers.
- 950—Revenues, Expenses, and Statistics of Freight Forwarders. Operating revenues, expenses, income items, net income, tons of freight received from shippers, and number of shipments received from shippers.

¹ Except No. 300: The first issue is for the month of June, and the second issue is for the month of December.

Monthly

- M-350—Report of Railroad Employment, Class I Line-Haul Railroads. Number of employees at middle of month, group totals.
- Transport Economics. Recurring and special analyses of traffic, operations, equipment, finances, and employment of transportation industries, and related subjects. Issued monthly.

TRANSPORT ECONOMICS ¹

The following statement shows average employment and total appropriations for the fiscal year 1945 to 1972 for activities included under the current appropriation title "Salaries and expenses."

¹ Prepared by Bureau of Economics. Upon request to the Bureau, copies may be obtained free of charge until supply is exhausted.

APPENDIX F—APPROPRIATIONS AND EMPLOYMENT

The following statement shows average employment and total appropriations for the fiscal year 1945 to 1972 for activities included under the current appropriation title "Salaries and expenses."

Year	Appropriation	Average employment
1945	\$ 8,883,700	1,957.5
1946	8,733,738	2,058.3
1947	10,496,200	2,240.4
1948	10,713,000	2,247.7
1949	11,300,317	2,217.8
1950	11,416,700	2,161.0
1951	11,408,200	2,072.3
1952	11,264,035	1,889.5
1953	11,003,500	1,849.4
1954	11,284,000	1,837.9
1955	11,679,655	1,859.1
1956	12,896,000	1,902.2
1957	14,879,696	2,090.1
1958	17,412,375	2,237.8
1959	18,747,800	2,268.1
1960	19,650,000	2,343.6
1961	21,451,500	2,386.1
1962	22,075,000	2,399.7
1963	23,502,800	2,412.8
1964	24,670,000	2,407.8
1965	26,715,000	2,399.1
1966	27,540,000	2,375.8
1967	¹ 27,169,000	² 1,928.9
1968	23,846,000	1,899.0
1969	24,664,000	1,808.1
1970	27,742,660	1,801.9
1971	28,442,000	1,730.7
1972	30,640,000	³ 1,775.4

¹ Excludes \$1,310,000 transferred to the Department of Transportation (Public Law 89-670) approved October 15, 1966, and determination order of the Director of the Office of Management and Budget which authorized transfer of funds as of April 1, 1967.

² Excludes average employment for those functions transferred to the Department of Transportation effective April 1, 1967.

³ Estimated.

**STATEMENT OF APPROPRIATIONS AND OBLIGATIONS FOR THE
FISCAL YEAR ENDED JUNE 30, 1971**

(The Congress did not enact an appropriation bill for the Department of Transportation and related agencies for the fiscal year ending June 30, 1971. The Commission operated under a series of Joint Resolutions which provided a funding level as set forth in the Department of Transportation and Related Agencies Appropriation Act, 1971 (H.R. 17755, Ninety-first Congress) as modified by the House of Representatives on December 15, 1970).

Salaries and Expenses: (P.L. 91-294, approved June 29, 1970; P.L. 91-370, approved August 1, 1970; P.L. 91-454, approved October 15, 1970; P.L. 91-645, approved January 2, 1971; P.L. 92-7, approved March 30, 1971)	\$27,000,000
Supplemental appropriation (P.L. 92-18, 92nd Congress, approved May 25, 1971)	1,442,000
Amount available	28,442,000
Obligations and unobligated balance of appropriation as of June 30, 1971: The obligations shown represent net obligation after deducting reimbursements from non-Federal sources and all credits for services and salaries charged to other Government activities.	
Net obligations under appropriation for the year ended June 30, 1971: Salaries and expenses	28,435,556
Unobligated balance of appropriation Salaries and Expenses	6,444
Statement of receipts from fees and charges during the fiscal year ended June 30, 1971:	
Registration and filing fees	1,612,651
Fees and other charges for other administrative services	21,516
Total receipts from fees and charges	1,634,167
Payment of loan guaranties: For payments required to be made as a consequence of loan guaranties made by the Interstate Commerce Commission under section 503 of the Interstate Commerce Act, as amended (49 U.S.C. 1233):	
Boston and Maine (P.L. 91-645, approved January 2, 1971):	
Principal balance	\$3,216,667
Accrued interest to date of payment	206,454
Penn Central; New York, New Haven and Hartford; Boston and Maine (P.L. 91-665, approved January 8, 1971):	
Principal balance	40,685,000
Accrued interest to date of payment	1,792,893

APPENDIX G—TRANSPORTATION STATISTICS

General
TABLE 1.—Number of carriers subject to uniform system of accounts and required to file annual and periodic reports as of June 30, 1971

Railroads, class I	70
Railroads, class II	276
Railroad switching and terminal companies, class I	29
Railroad switching and terminal companies, class II	149
Railroad lessor companies	141
Motor carriers, class I passenger	¹ 108
Motor carriers, class I property	1,597
Motor carriers, class II property	2,169
Oil pipelines	100
Water carriers	84
Maritime carriers	17
Electric railways	8
Freight forwarders	69
Protective service companies	7
Express companies	1
Stockyard companies	² 29
Holding companies (rail)	8
Holding companies (water)	3
Total	4,865

Number of carriers and organizations filing annual reports but not subject to prescribed uniform system of accounts as of June 30, 1971	
Carlines (companies which furnish cars for use on lines of railroads)	137
Class II and III motor carriers of property	921
Class III motor carriers of property	11,351
Water carriers (less than \$100,000 gross revenue)	109
Freight forwarders (less than \$100,000 gross revenue)	20
Holding companies (motor)	53
Street electric lines	1
Rate bureaus and organizations	115
Total	12,707
Grand total	17,572

¹ Includes 7 combination (property and passenger) carriers.

² Includes 12 stockyard company lessors.

TABLE 2.—Revenues, net investment, and taxes, 1970¹
(thousands)

Kind of carrier	Operating revenues ²	Net investment in carrier operating property and equipment Dec. 31, 1969	Taxes ³	
			Income and excess profits	All other
Class I line-haul railroads	\$11,991,658	\$24,980,014	\$ 88,349	\$ 980,169
Motor carriers of property (class I intercity)	11,474,491	2,327,755	³ 137,794	683,374
Motor carriers of passengers (class I intercity)	721,016	291,269	³ 35,983	49,388
Water carriers (class A and class B)	369,973	237,673	³ 15,543	5,078
Oil pipelines ⁴	1,153,212	3,084,149	⁴ 135,734	78,146
REA Express, Inc.	313,237	128,441	⁴ 777	22,220
Total	26,023,587	31,049,301	414,180	1,818,375

Percentage distribution²

Class I line-haul railroads	46.1	80.5	21.3	53.9
Motor carriers of property	44.1	7.5	33.3	37.6
Motor carriers of passengers	2.8	.9	8.7	2.7
Water carriers	1.4	.8	3.7	.3
Oil pipelines	4.4	9.9	32.8	4.3
REA Express, Inc.	1.2	.4	.2	1.2
Total	100.0	100.0	100.0	100.0

¹ Net investment in carrier property and equipment at the close of the preceding year.² Preliminary.³ United States and State taxes combined.⁴ Does not include 5 pipeline departments.

TABLE 3.—Intercity ton miles, public and private, by mode of transportation, 1969 and 1970*

Mode of transportation	1969	1970	Percent change	Percent of grand total	
				1969	1970
	Millions	Millions			
1. Railroads and electric railways, including express and mail	774,000	768,000	-0.8	40.84	39.97
2. Motor vehicles	404,000	412,000	2.0	21.32	21.44
3. Inland waterways including Great Lakes	302,901	307,000	1.4	15.98	15.98
4. Pipelines (oil)	411,000	431,000	4.9	21.69	22.43
5. Airways (domestic revenue service) including express, mail, and excess baggage	3,200	3,400	6.3	0.17	0.18
Grand total	1,895,101	1,921,400	1.4	100.00	100.00

* Data for 1970 are preliminary.

Sources (numbers below same as items in table).

1. Reports to the Interstate Commerce Commission (ICC).

2. Based on data obtained from the Federal Highway Administration, Department of Transportation.

3. Reported by the Corps of Engineers, Department of the Army. Only ton miles in domestic waters are included.

4. Estimated by using reports to the ICC.

5. Based on statistics obtained from the Civil Aeronautics Board.

TABLE 4.—Federally regulated and total intercity ton miles, 1969, by mode of transportation

Mode of transportation	Federally regulated		Not federally regulated		Total	
	Ton miles	Percent	Ton miles	Percent	Ton miles	Percent
	Billions		Billions		Billions	
Rail	774.0	100.0	0.0	0.0	774.0	100.0
Motor	167.0	41.3	237.0	58.7	404.0	100.0
Water ¹	35.3	6.7	493.6	93.3	528.9	100.0
Pipeline (oil)	346.4	84.3	64.6	15.7	411.0	100.0
Air ²	3.2	100.0	0.0	0.0	3.2	100.0
Total	1,325.9	62.5	795.2	37.5	2,121.1	100.0

¹ Federally regulated ton miles include only regulated traffic carried by regulated water carriers. All exempt traffic is excluded. The separation was made from data supplied by the Corps of Engineers, Department of the Army. The total water carrier data include deepsea, coastwise and intercoastal service.

² Air ton mile data are supplied by the Civil Aeronautics Board.

RAILROADS

TABLE 5.—Shareholders' equity and long-term debt and dividends, 1968-70—class I line-haul railroads and their lessor subsidiaries (Dollars in thousands)

Year ended	Shareholders' equity				Total long-term debt	Total equity and debt	Ratio of debt to total equity and debt (percent)	Amount of dividends ¹
	Total	Capital stock	Capital surplus	Retained income				
1968	\$19,462,742	\$6,372,476	\$2,165,910	\$10,924,356	\$10,503,919	\$29,966,661	35.96	\$542,784
1969	19,275,468	6,386,492	2,208,616	10,680,360	10,825,238	30,100,706	35.96	513,595
1970 ²	19,024,808	6,136,127	2,636,467	10,252,214	11,055,589	30,080,397	36.75	417,081

¹ Includes figures for lessors and operating railroads without excluding duplications on account of intercorporate payments. Stock dividends for the last 3 years have been as follows: \$765,221 in 1968; \$503,273 in 1969; and \$521,800 in 1970.

² Preliminary

TABLE 6.—Revenues, expenses, and income, class I line-haul railroads, 1968-70
(Dollars in thousands)

Year ended	Freight revenues	Passenger revenues	Total operating revenues	Total transportation expenses	Total operating expenses	Operating ratio (percent)	Net railway operating income	Ordinary income	Total extraordinary and prior period items ¹	Net income
1968	\$ 9,749,788	\$444,334	\$10,854,678	\$4,354,795	\$8,580,961	79.05	\$677,623	\$590,402	—\$25,897	\$564,505
1969	10,346,258	438,667	11,450,325	4,595,574	9,066,529	79.18	654,670	514,238	—50,673	463,565
1970 ²	10,921,813	420,452	11,991,658	4,873,299	9,659,982	80.56	485,854	226,583	—150,404	76,179

¹ Reflects accounts 570, Extraordinary items (net); 580, Prior period items (net) and 590, Federal income taxes on extraordinary and prior period items, Uniform System of Accounts, Railroads, prescribed effective January 1, 1967.

² Preliminary.

TABLE 7.—Taxes and equipment rents, class I line-haul railroads, 1968-70
(Dollars in thousands)

Year ended Dec. 31—	Railway tax accruals	Equipment and joint facility rents (net)	Other income	Interest, rents, and other deductions	Federal income and excess-profits taxes ¹
1968	\$ 946,334	—\$649,761	\$520,639	\$581,964	\$ 66,078
1969	1,029,067	— 700,059	505,268	595,028	106,191
1970 ²	1,068,518	— 777,304	482,433	591,299	88,349

¹ Included in railway tax accruals. Excludes Federal income taxes on extraordinary and prior period items.

² Preliminary.

TABLE 8.—Net railway operating income, net income, and rates of return, class I line-haul railroads, 1968-70
(Dollars in thousands)

Year ended Dec. 31—	Net investment in transportation property plus working capital	Net railway operating income	Ratio of net railway operating income to investment in property used in transportation operations less depreciation and amortization (percent)	Shareholders' equity	Net income	Ratio of net income to shareholders' equity (percent)
1968	\$26,903,000	\$677,623	2.52	\$17,962,680	\$564,505	3.14
1969	27,506,704	654,670	2.38	17,768,768	463,565	2.61
1970 ¹	27,814,560	485,854	1.75	17,323,342	76,169	0.44

¹ Preliminary

TABLE 9.—Current assets and current liabilities—Class I line-haul railroads as of June 30, 1970-71 ¹
(Dollars in millions)

	1970 Amount	1971 Amount	Percent of change
Total current assets	\$3,391	\$3,761	+10.9
Cash and temporary cash investments	974	1,130	+16.0
Materials and supplies	552	559	+8.5
Total current liabilities	3,162	3,000	-5.1
Net working capital:			
Including materials and supplies	229	761	+232.3
Excluding materials and supplies	—323	162	—
RATIOS			
Current assets to current liabilities:			
Including materials and supplies	1.07	1.25	
Excluding materials and supplies	.90	1.25	
Cash and temporary cash investments to current liabilities	.31	.38	

¹ Preliminary.

TABLE 10.—Condensed income account—class I line-haul railroads, 1968-70
(In millions)

Item	1968	1969	1970 ¹
Revenue, other income, and extraordinary and prior items	\$11,348	\$11,892	\$12,315
Cost of materials, depreciation, and other expenses, except wages and salaries	4,379	4,678	5,031
Taxes, including income, profits, and payroll	945	1,016	1,060
Total deductions	5,324	5,694	6,091
Remainder for employees and investors	6,024	6,198	6,224
Wages and salaries ²	4,852	5,089	5,406
Investors' Share:			
Rent for leased roads ³	61	60	63
Interest on obligations	451	487	552
Other deductions ⁴	96	98	127
For dividends and surplus	564	464	76
Total	1,172	1,109	818
Percent wages and salaries	80.5	82.1	86.9
Percent investors' share	19.5	17.9	13.1

¹ Preliminary.² Chargeable to operating expenses and not including the following amounts of payroll taxes in millions: 1970, \$576; 1969, \$533; and 1968, \$513.³ Represents largely intercompany payments among railroads of interest and dividends.⁴ Miscellaneous deductions from income, and amortization of discount on funded debt.**TABLE 11.—Number and compensation of employees—class I line-haul railroads, 1968-70**

Year ended Dec. 31—	Average number of employees during year ¹	Total hours paid for	Compensation of railroad employees ²			
			Total	Average per hour	Ratio to revenues	Ratio to expenses
		Thousands	Thousands		Percent	Percent
1968	590,536	1,441,849	\$5,110,636	\$3.545	47.08	59.56
1969	578,277	1,413,820	5,362,754	3.793	46.83	59.15
1970	566,282	1,378,711	5,556,734	4.030	46.34	57.52

¹ This is the average of 12 counts made at middle of month and differs from the number of persons receiving pay during the month of year regardless of whether for a long or short period.² In 1970, \$5,406,123,264 or 97.29 percent of the reported compensation was chargeable to operating expenses.

TABLE 12.—Revenues, expenses, income, and employment of refrigerator car lines owned or controlled by railroads, 1968-70

Year ended Dec. 31—	Number of com- panies repre- sented	Operating revenues	Operating expenses	Oper- ating ratio	Income taxes	Ordinary income	Total extraordinary and prior period items ²	Employees	
								Average number	Compen- sation
1968	8	\$180,772,824	\$121,773,727	67.36	\$4,497,194	\$10,462,105	\$228,306	5,328	\$43,026,998
1969	8	189,726,403	121,804,082	64.20	4,701,246	14,386,894	—	5,372	44,788,265
1970 ³	7	196,956,857	127,721,764	64.85	4,325,386	11,410,974	-150,000	5,218	50,140,157

¹ Excludes Federal income taxes on extraordinary and prior period items.² Reflects accounts 570, Extraordinary items (net); 580, Prior period items (net) and 590, Federal income taxes on extraordinary and prior period items, Uniform System of Accounts, Refrigerator Car Lines, prescribed effective January 1, 1967.³ Preliminary.

TABLE 13.—Carline operating income before income taxes, net income, and rate of return of refrigerator car lines owned or operated by railroads, 1968-70

Year ended Dec. 31—	Net investment in transportation property plus working capital	Carline operating income before income taxes	Ratio of car- line operating income before income taxes to net invest- ment in trans- portation property plus working capital	Shareholders' equity	Net income	Ratio of net in- come to share- holders' equity
			Percent			Percent
1968	\$416,427,897	\$24,598,557	5.91	\$245,065,619	\$10,690,411	4.36
1969	424,244,612	30,383,718	7.16	251,231,869	14,386,894	5.73
1970 ¹	434,013,363	27,082,484	6.24	258,578,593	11,260,974	4.35

¹ Preliminary.TABLE 14.—Selected statistics of nonrailroad controlled private carowners,¹ 1968-70

Year ended Dec. 31—	Cars owned at close of year					Receivable Revenue	Miles made by owned cars
	Refriger- ator	Petroleum	Other tank	Other ²	Total		
						Thousands	Thousands
1968	13,413	81,836	79,650	153,923	328,822	512,613	4,765,350
1969	13,748	80,908	80,717	174,881	350,254	561,938	4,986,407
1970 ³	13,031	79,373	76,348	180,988	349,740	593,591	4,956,588

¹ Confined to owners of 10 or more cars. Does not include railroad owned or controlled refrigerator car lines.² Includes stock, gondola, hopper, airdump, box, cradle, flat, vat, etc., cars.³ Preliminary.

MOTOR CARRIERS (PROPERTY)

TABLE 15.—Operating revenues of class I intercity motor carriers of property, 1968-70

Year ended Dec. 31—	Number of carriers repre- sented	Operating revenues					Total
		Freight, intercity, common	Freight intercity, contract	Freight, local	Transporta- tion for other classes I and II motor carriers	Other	
1968	1,252	\$8,807,150,151	\$311,644,723	\$321,071,189	\$75,878,250	\$77,092,643	\$9,592,836,956
1969	1,311	9,801,301,111	338,085,084	459,092,163	80,721,342	90,540,940	10,769,740,640
1970 ¹	1,295	10,474,459,478	328,149,099	466,598,966	94,748,416	110,534,704	11,474,490,663

¹ Preliminary.

TABLE 16.—Expenses, income, and employment of class I intercity motor carriers of property, 1968-70

Year ended Dec. 31—	Operating expenses	Operat- ing ratio	Income taxes ¹	Ordinary income	Total extraordinary and prior period items ²	Net income	Employees	
							Average number	Compensa- tion
1968	\$9,128,838,220	95.16	\$170,171,577	\$235,173,932	\$3,775,684	\$238,949,616	469,045	\$4,199,681,291
1969	10,336,846,982	95.98	152,129,928	196,861,376	2,846,889	199,708,265	510,182	4,761,661,880
1970 ³	10,685,730,586	93.12	137,793,879	144,323,581	16,847,043	161,170,624	502,021	4,903,315,990

¹ Excludes income taxes applicable to sole proprietorships, partnerships, and corporations that have elected to be taxed under sec. 1372(a) of the Internal Revenue Code. Excludes income taxes on extraordinary and prior period items.

² Reflects accounts 8910, Extraordinary items (net); 8930, Prior period items (net) and 8950, Income taxes on extraordinary and prior period items, Uniform System of Accounts, Motor Carriers of Property, prescribed effective January 1, 1967.

³ Preliminary.

TABLE 17.—Net carrier operating income, net income, and rate of return, class I intercity motor carriers of property, 1968-70

Year ended Dec. 31—	Net investment in transportation property plus working capital	Net carrier operating income	Ratio of net carrier operating income to net investment in transportation property plus working capital	Shareholders' and proprietors' equity	Net income	Ratio of net income to share holders' and proprietors' equity
			Percent			Percent
1968	\$2,179,075,325	\$461,504,402	21.18	\$1,857,225,276	\$238,949,616	12.87
1969	2,499,310,155	430,709,709	17.23	2,031,419,096	199,708,265	9.83
1970 ¹	2,873,946,931	399,460,586	13.90	2,234,143,403	161,170,624	7.21

¹ Preliminary.

MOTOR CARRIERS (PASSENGERS)

TABLE 18.—Operating revenues of class I intercity motor carriers of passengers, 1968-70

Year ended Dec. 31—	Number of carriers represented	Operating revenues				Total
		Passenger intercity schedules	Local and suburban schedules	Charter or special service	Other operating	
1968	173	\$488,893,436	\$14,962,590	\$89,450,717	\$101,292,728	\$694,599,471
1969 ¹	70	583,158,039	13,070,620	75,432,532	105,365,273	677,026,464
1970 ²	71	510,213,512	13,298,710	79,909,433	117,594,573	721,016,228

¹ Effective Jan. 1, 1969, the revenue qualification of a class I motor carrier of passengers was increased from average annual operating revenues of \$200,000 or more to \$1,000,000 or more.

² Preliminary.

TABLE 19.—Expenses, income, and employment of class I intercity motor carriers of passengers, 1968-70

Year ended Dec. 31—	expenses Operating	Operating ratio	Income taxes ¹	Ordinary income	Total extraordinary and prior period items ²	Net income	Employees	
							Average Number	Compensation
1968	\$613,279,635	88.29	\$36,477,057	\$34,803,280	—	\$34,803,280	37,487	\$296,794,356
1969 ⁴	593,937,244	87.73	39,375,766	56,397,416	—	56,391,416	33,628	293,383,441
1970 ⁵	640,219,012	88.55	35,983,156	52,230,020	\$9,046	52,239,066	34,931	315,181,079

¹ Excludes income taxes applicable to sole proprietorships, partnerships, and corporations that have elected to be taxed under sec. 1372(a) of the Internal Revenue Code. Excludes income taxes on extraordinary and prior period items.

² Reflects accounts 9010, Extraordinary items (net); 9030, Prior period items (net) and 9050, Income taxes on extraordinary and prior period items, Uniform System of Accounts, Motor Carriers of Passengers, effective January 1, 1967.

³ Does not include Greyhound Lines, Inc. Divisions where shareholders' and proprietors' equities were not determinable.

⁴ Effective Jan. 1, 1969, the revenue qualification of class I motor carrier of passengers was increased from average annual operating revenues of \$200,000 or more to \$1,000,000 or more.

⁵ Preliminary.

TABLE 20.—Net carrier operating income, net income, and rate of return—class I intercity motor carriers of passengers, 1968-70

Year ended Dec. 31—	Net investment in transportation property plus working capital	Net carrier operating income	Ratio of net carrier operating income to net investment in transportation property plus working capital	Shareholders' and proprietors' equity	Net income	Ratio of net income to shareholders' and proprietors' equity
1968	\$331,511,695	\$81,374,049	Percent 24.55 ¹	\$241,781,004 ²	\$34,803,280	Percent 14.39
1969 ³	454,140,953	82,940,471	18.26	371,743,835	56,391,416	15.17
1970 ⁴	450,572,151	82,741,184	18.36	386,034,740	52,239,066	13.53

¹ Does not include shareholders' and proprietors' equities of Greyhound Lines, Inc. Divisions where not determinable.

² Does not include net income of Greyhound Lines, Inc. Divisions where shareholders' and proprietors' equities were not determinable.

³ Effective Jan. 1, 1969, the revenue qualification of a class I motor carrier of passengers was increased from average annual operating revenues of \$200,000 or more to \$1,000,000 or more.

⁴ Preliminary.

WATER CARRIERS

TABLE 21.—Revenues of classes A and B carriers by inland and coastal waterways, 1968-70

Year ended Dec. 31—	Number of companies repre- sented	Line-service operating revenues			Other operating revenue	Revenue from terminal operations	Total waterline operating revenues
		Freight	Passenger	Total			
1968	85	\$228,516,555	\$9,155,422	\$247,232,892	\$5,138,471	\$27,443,283	\$307,644,506
1969	90	241,662,362	9,707,663	262,744,276	4,232,716	26,698,247	327,457,471
1970 ¹	81	276,666,821	8,477,898	299,599,487	5,479,740	23,675,580	369,972,728

¹ Preliminary.

TABLE 22.—Expenses and income of classes A and B carriers by inland and coastal waterways, 1968-70

Year ended Dec. 31—	Operating expenses	ratio Operating	Net revenue from waterline operations	Income taxes	Ordinary income	Total extraordinary and prior period items ¹	Net income	Employees	
								Average number	Compensation
1968	\$272,347,928	88.53	\$35,296,578	\$10,924,200	\$25,288,330	\$937,089	\$26,225,419	9,924	\$81,678,388
1969	295,256,495	90.17	32,200,976	9,440,218	21,469,103	410,881	21,879,984	8,664	77,775,907
1970 ³	319,434,993	86.34	43,480,919	15,543,286	26,494,215	1,053,945	27,548,160	7,811	110,463,291

¹ Excludes income taxes on extraordinary and prior period items.² Reflects accounts 570, Extraordinary items (net); 580, Prior period items (net) and 590, Income taxes on extraordinary and prior period items, Uniform System of Accounts, Inland and Coastal Waterways, prescribed effective Jan. 1, 1967.³ Preliminary.

TABLE 23.—Net revenue from waterline operations, net income, and rate of return—classes A and B carriers by inland and coastal waterways, 1968-70

Year ended Dec. 31—	Net investment in transportation prop- erty plus working capital	Net revenue from waterline operations	Ratio of net revenue from water- line opera- tions to net invest- ment in transporta- tion prop- erty plus working capital	Share holders' equity	Net income	Ratio of net in- come to share- holders' equity
			Percent			Percent
1968	\$287,735,765	\$35,296,578	12.28	\$239,138,296	\$26,225,419	10.97
1969	279,969,589	32,200,976	11.50	245,206,085	21,877,984	8.92
1970 ¹	295,009,772	43,480,919	14.74	265,875,706	27,548,160	10.36

¹ Preliminary.

TABLE 24.—Revenues and expenses of maritime carriers, 1968-70

Year ended	Num- ber of com- panies repre- sented	Operating revenues			Total waterline operating	Waterline tax accruals	Total expenses waterline operating	Oper- ating ratio
		Coastwise and inter- coastal service	Charter	Total vessel operating				
								Percent
1968	18	\$67,352,766	\$96,031,095	\$728,197,762	\$801,913,003	\$1,573,465	\$742,679,757	92.61
1969	17	83,818,294	55,758,841	670,291,716	739,324,526	1,554,369	678,037,906	91.71
1970 ¹	19	93,572,065	37,323,745	675,643,985	814,319,783	1,314,919	808,282,791	99.26

¹ Preliminary.

TABLE 25.—Taxes, income, and employment of maritime carriers, 1968-70

Year ended Dec. 31—	Provision for income taxes ¹	Ordinary income	Total extraordinary and prior period items	Net income	Employees	
					Average number	Compensation
1968	\$11,447,732	\$51,704,539	\$1,804,722	\$53,509,261	13,803	\$128,129,627
1969	18,722,267	75,095,919	5,456,157	80,552,076	13,719	124,468,670
1970 ³	547,742	15,732,108	6,851,202	22,583,310	14,845	156,273,027

¹ Excludes Federal income taxes on extraordinary and prior period items.² Reflects accounts 990, Extraordinary items (net); 994, Prior period items (net) and 998, Federal income taxes on extraordinary and prior period items, Uniform System of Accounts, Maritime, prescribed effective Jan. 1, 1967.³ Preliminary.

TABLE 26.—Gross profit from shipping operations, net income, and rate of return of maritime carriers, 1968-70

Year ended Dec. 31—	Net invest- ment in transporta- tion property plus working capital	Gross profit from shipping operations	Ratio of gross profit from shipping op- erations to net invest- ment in trans- portation property plus working capital	Shareholders' equity	Net income	Ratio of income share- holder: equity
			Percent			Percent
1968	\$538,688,135	\$59,233,246	11.00	\$368,742,428	\$53,509,261	14.51
1969	517,383,795	61,286,620	11.85	426,250,648	80,552,076	18.90
1970 ¹	471,591,512	41,655,424	8.83	431,960,395	22,583,310	5.23

¹ Preliminary.

FREIGHT FORWARDERS

TABLE 27.—Transportation revenues and transportation purchased, class A freight forwarders, 1968-70

Year ended Dec. 31—	Num- ber of for- ward- ers rep- resented	Transpor- tation revenues	Transportation purchased					Total
			Railroad	Motor	Water	Pickup, delivery, and transfer	Other	
1968	64	\$560,671,045	\$165,204,351	\$96,922,049	\$5,146,831	\$91,678,359	\$8,719,759	\$367,671,349
1969	65	590,570,712	170,775,188	99,337,540	6,218,049	95,227,895	12,816,374	384,375,046
1970 ¹	64	593,167,124	174,278,869	89,958,387	7,129,223	98,903,199	16,202,280	386,471,958

¹ Preliminary.

TABLE 28.—Revenues, expenses, income taxes, income and employment of class A freight forwarders, 1968-70

Year ended Dec. 31—	Operating revenues	Operating expenses	Oper- ating ratio	Revenue from for- warder operations	Income taxes	Ordinary income	Total extraordinary and prior period items ²	Net income	Employees	
									Aver- age num- ber	Compen- sation
1968	\$196,937,331	\$179,768,607	91.28	\$17,168,724	\$9,432,994	\$6,760,069	\$11,190	³ \$6,771,259	9,786	\$73,970,592
1969	211,123,559	193,825,552	91.81	17,298,007	8,506,837	7,018,203	7,606	7,025,809	10,521	81,368,240
1970 ⁴	210,903,178	207,400,687	98.34	3,502,491	533,895	-1,302,701	-613,937	-1,918,638	10,480	82,293,259

¹ Excludes income taxes on extraordinary or prior period items.² Reflects accounts 435, Extraordinary items (net); 440, Prior period items (net) and 450, Income taxes on extraordinary and prior period items, Uniform System of Accounts, Freight Forwarders, prescribed effective Jan. 1, 1967.³ Data of 1 large corporation in process of reorganization under chapter X of the Bankruptcy Act have been omitted from this item. Had such data been included, net income would be \$5,960,477.⁴ Preliminary.

TABLE 29.—Revenue, less taxes, from forwarder operations, net income, and rate of return of Class A freight forwarders, 1968-70

Year ended Dec. 31—	Net investment in transportation property plus working capital	Revenue, less transportation taxes, from forwarder operations	Ratio of revenue less transportation taxes from forwarder operations to net investment in transportation property plus working capital	Shareholders' equity	Net income	Ratio of net income to shareholders' equity
1968	\$30,687,164	\$16,451,194	53.61	¹ \$27,077,702	¹ \$6,771,259	¹ 25.01
1969	36,750,685	16,544,422	45.02	28,694,435	7,025,809	24.48
1970 ²	32,484,277	2,535,405	7.81	18,928,360	—1,302,701	.....

¹ Data of large corporation in process of reorganization under Chapter X of the Bankruptcy Act have been omitted from this item. Inclusion of such data would have distorted ratio of net income to shareholders' equity.

² Preliminary.

OIL PIPELINES

TABLE 30.—Revenue, expenses, income, and employment of oil pipeline companies, 1968-70

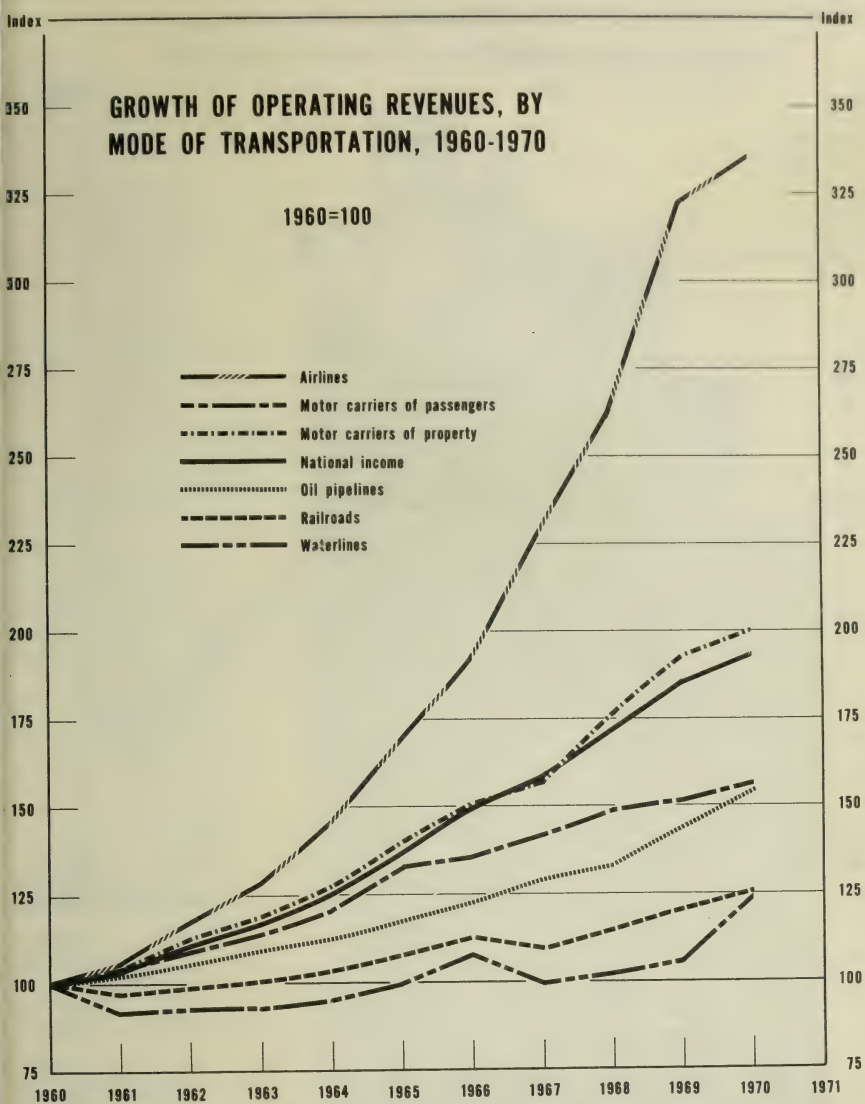
Year ended Dec. 31	Number of companies represented	Operating revenues	Operating expenses	Operating ratio	Taxes		Ordinary income	Total extraordinary and prior period items ²	Net income	Employees	
					U.S. Government	Other than U.S. Government				Average number	Compensation
1968	92	\$990,490,638	\$577,457,465	58.30	\$115,816,527	\$59,116,713	\$252,787,370	\$5,380,971	\$247,406,399	15,958	\$153,030,427
1969	84	1,069,262,534	623,186,580	58.28	129,480,322	66,594,010	255,413,941	7,872,623	263,286,564	15,679	159,361,651
1970 ⁴	96	1,153,212,191	652,738,439	56.60	140,906,184	72,973,125	294,465,952	17,471,200	301,937,152	15,017	162,013,182

¹ Excludes Federal income taxes on extraordinary and prior period items.² Reflects accounts 680, Extraordinary items (net); 690, Prior period items (net) and 695, Federal income taxes on extraordinary and prior period items, Uniform System of Accounts, Pipe Line Companies, prescribed effective January 1, 1967.³ Includes employees of pipeline departments of 5 large oil companies.⁴ Preliminary.

TABLE 31.—Net revenue from operations, net income, and rate of return of oil pipeline companies, 1968-70

Year ended Dec. 31—	Net investment in transportation property plus working capital	Net revenue from operations	Ratio of net revenue from operations to net investment in transportation property plus working capital	Shareholders' equity	Net income	Ratio of net income to shareholders' equity
1968	\$3,077,980,684	\$413,033,173	13.42	\$1,569,491,867	\$254,121,073	16.19
1969	3,283,045,581	446,075,954	13.59	1,693,139,226	263,286,564	15.55
1970 ¹	3,509,314,285	500,473,752	14.26	1,826,865,240	301,937,152	16.53

¹ Preliminary.

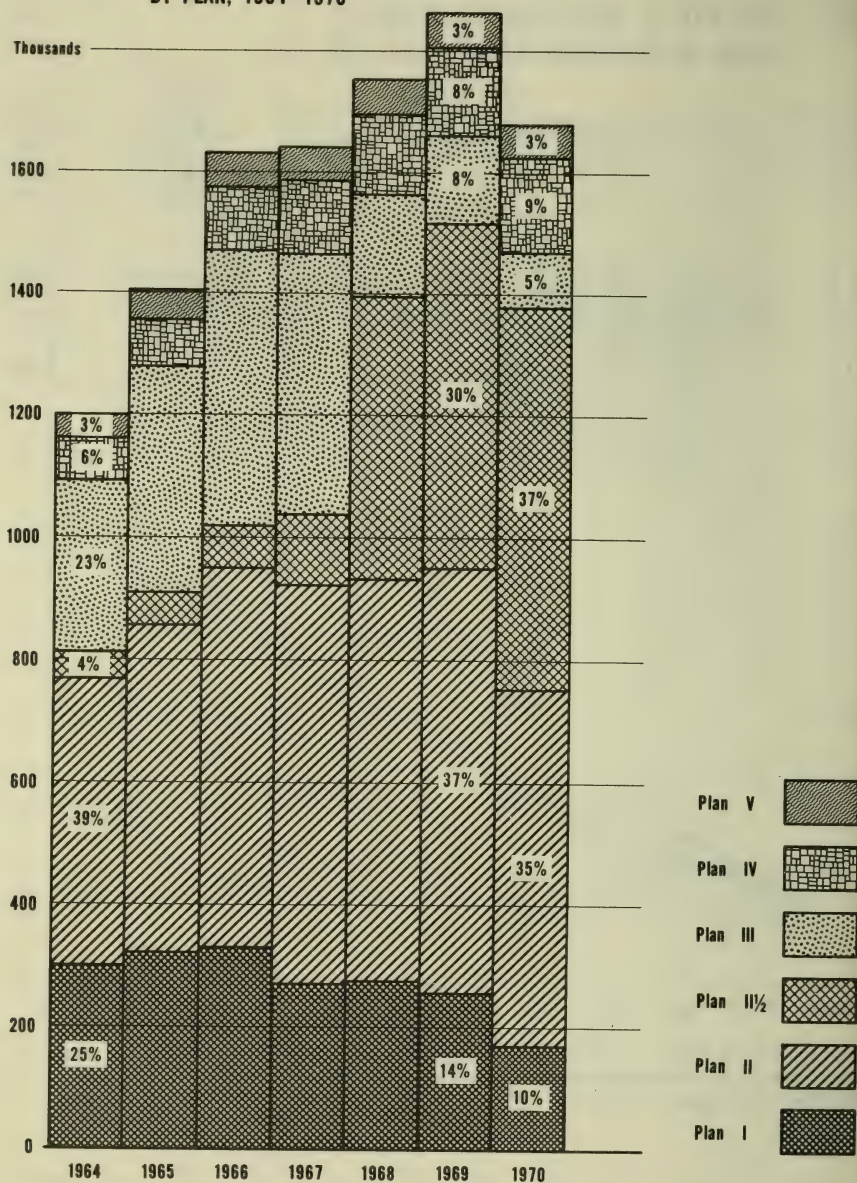


Note: Excludes Electric Railways and Railway Express which combined are less than one percent of the total 1970 revenues.

Source: Annual reports to the Interstate Commerce Commission and the Civil Aeronautics Board.

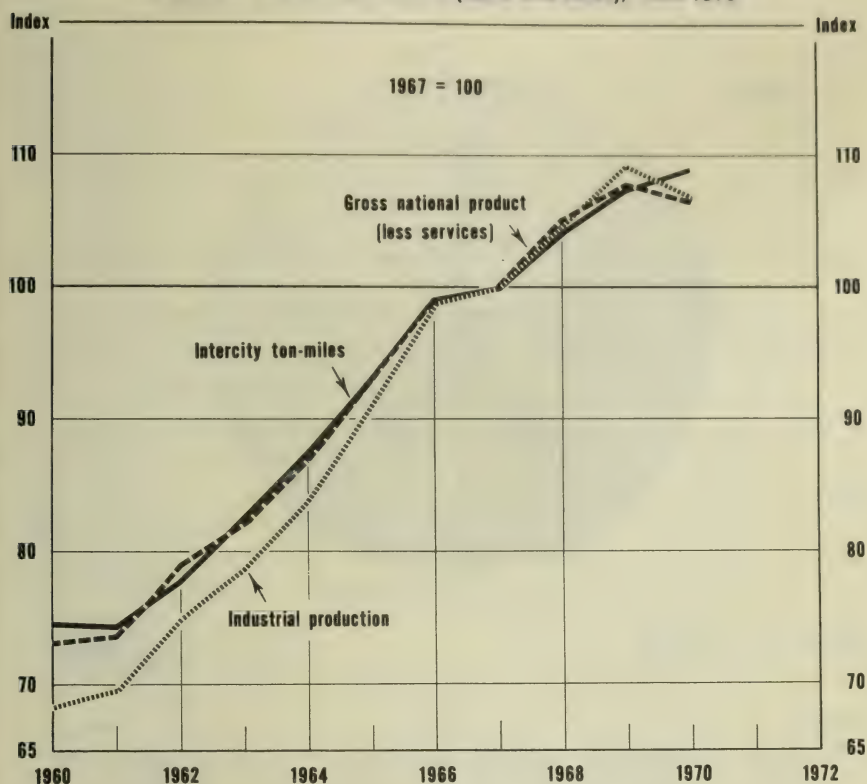
National income — Department of Commerce.

**PIGGYBACK TRAILER AND CONTAINER TERMINATIONS
REPORTED BY CLASS I RAILROADS
BY PLAN, 1964-1970**



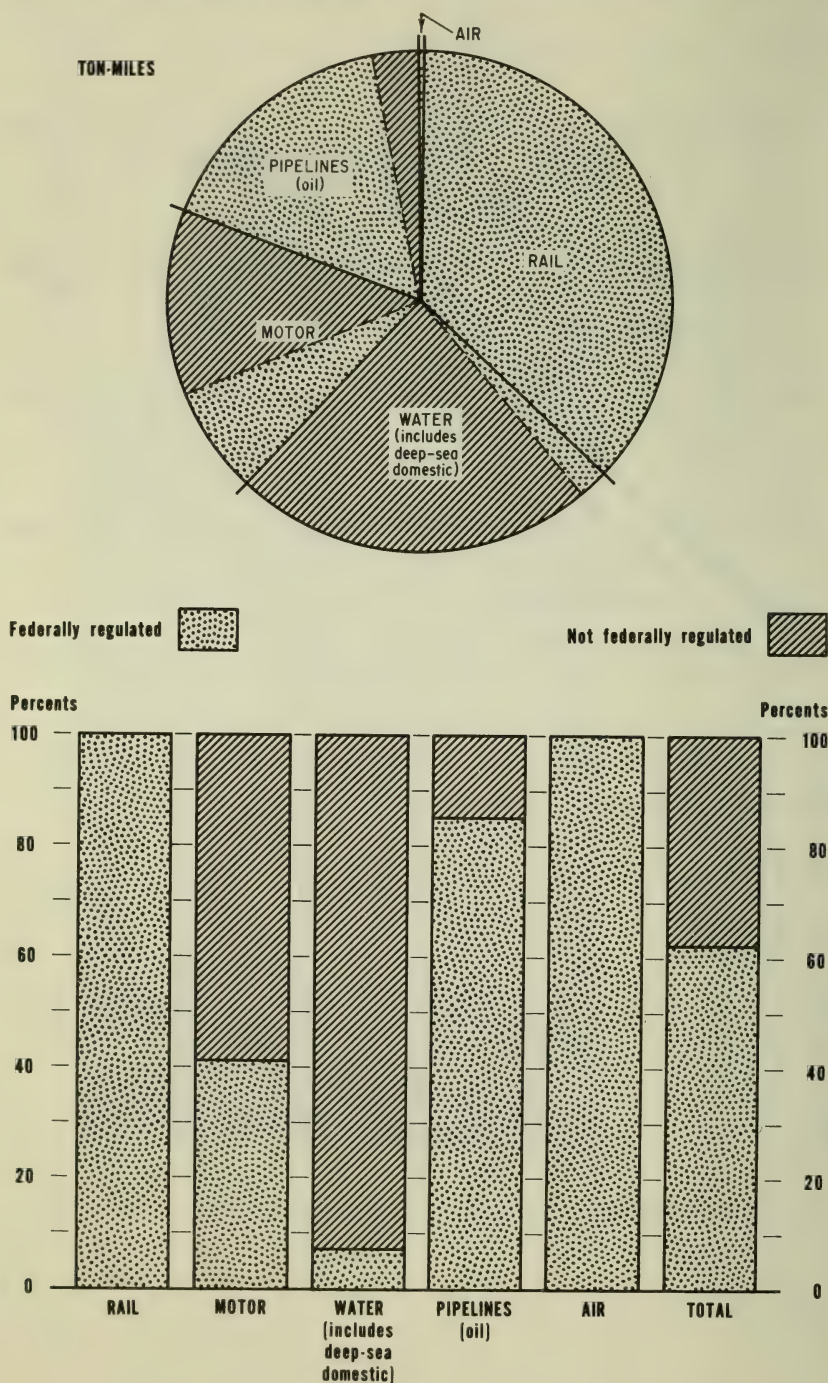
Source: Bureau of Economics, Statement No. 66-1, Piggyback Traffic Characteristics (1966) and Transport Economics.

INDEXES OF INTERCITY TON-MILES, INDUSTRIAL PRODUCTION, AND GROSS NATIONAL PRODUCT (LESS SERVICES), 1960-1970



Sources: Federal Reserve Board, Office of Business Economics, and Interstate Commerce Commission.

INTERCITY TON-MILES OF FEDERALLY REGULATED AND NOT FEDERALLY REGULATED CARRIERS, 1969



INDEX

For matters pertaining to one of the following modes look under the names of the particular modes: Air Carriers; Freight Forwarders; Motor Carriers; Pipelines; Private Carriers; Rail Carriers; Water Carriers.

	Page
Abandonments. See Rail carriers.	
Administrative Conference of the United States:	
Proposed revision of discovery practices	82
Agricultural cooperatives:	
Exempt carriage	47
Administrative Ruling No. 107 discussed	48
"Incidental and necessary" test, case discussed	48
Injunctive actions, cases discussed	79
Air carriers:	
Growth of operating revenues, by mode of transportation, 1960-1970	137
Intercity ton-miles, percentage regulated and unregulated..	120, 140
Intercity ton-miles, public and private	119
Unlawful operations. See Unlawful carriage.	
Amtrak. See Rail Passenger Service Act of 1970.	
Ash Council. See President's Advisory Council on Executive Organization.	
Association of Interstate Commerce Commission Practitioners:	
Proposed revision of discovery practices	82
Automatic data processing. See Automation.	
Automation:	
Automatic data processing	87
Computer address and information system	74, 84
Expansion of automation program to cover other reports	84, 87
Redesign of forms	87
Bankruptcy Act:	
Section 77	64, 67, 72, 89

	Page
Board of Suspension:	
Statistics	24
Boards. See names of particular boards.	
Boston & Maine Corporation:	
Inclusion and reorganization discussed	64, 72
Boston & Providence Railroad:	
Reorganization plan consummated	72
Brokers:	
Injunctive actions	79
Rulemaking proceeding instituted to clarify criteria for contract carrier operations	45
Bureau of Accounts:	
Accounting	73
Accounting and cost publications	114
Accounts, statistics	60, 61
Burden study for 1966 completed, 1969 study in process	18
Computer files of motor carriers, well established	74
Computer master file being expanded	74
Reduction in reporting by maritime carriers, under consideration	74
Reporting requirements reviewed and modified	74
Reports processed	73
Section of Audit created	83
Several statements to be published on a semi-annual basis ..	75
Bureau of Economics:	
Piggyback, statistics	39, 138
Transport economics, publications	115
Bureau of Enforcement:	
Activities in consumer matters	76
Freight car shortages, prosecutions for violations of service orders	76
Household goods carriers, prosecutions for violations of rules	76
Insurance protection	76
Small shipments operations, violations prosecuted	76
Activities, statistics	110
Agricultural cooperatives activities	79
Civil claims settlements and amount imposed	110
Court cases and fines imposed	110
Federal Claims Collection Act of 1966, implementation	79
Demand Forfeiture Procedure	80
Injunctive procedures, Commission activities in	78

	Page
Bureau of Operations:	
Field office activities	84, 85
Bureau of Public Roads:	
Ton-miles, statistics	119
Bureau of Traffic:	
Board of Suspension. See Board of Suspension.	
Section of Rates and Informal Cases: Statistics	24
Statistics	108
Buses. See Motor carriers.	
Car shortages. See Rail carriers.	
Carrier coordination:	
Coordinated service	39, 41, 53, 59
Intermodal movements	23, 41, 81
Statistics	39
Carrier financial condition:	
Comparisons, analyses	71
Carriers. See names of particular kinds of carriers.	
Central Railroad Company of New Jersey (Jersey Central):	
Reorganization	72
Charter and special services. See Motor carriers.	
Civil Aeronautics Board:	
Cooperation with. See Interagency cooperation.	
Operating revenues, statistics	137
Proposed consolidation with ICC and FMC	6
Ton-miles, statistics	120
Commission:	
Activities to alleviate shortages in work stoppages	15, 36
Administration and procedures	82
Automation. See Automation.	
Budget, 1971	86, 117
Budget, fiscal 1972	86
Bureaus of Commission. See name of particular bureau.	
Cost reduction and management improvement	83, 84
Field activities:	
Assistance to public in work stoppages	15, 37, 84
Budgetary restrictions and staff reduction	84
Federal-State cooperation	84
Management improvement	84
Quality of field hearing rooms upgraded	88
Workload activities in fiscal year	85
Interagency cooperation. See Interagency cooperation.	
Legislative activities. See Legislative activities of Commission.	

Commission—Continued	Page
Legislative recommendations. See Legislative recommendations of Commission.	
Loan guarantee authority. See Guarantee of loans.	
Managing Director. See Managing Director.	
Mobilization planning. See Mobilization planning.	
Number of carriers and organizations filing annual reports but not subject to accounting regulations, 1971	118
Number of carriers subject to accounting rules, 1971	118
Offices of Commission. See name of particular office.	
Organization and administration:	
Commissioners	2
Field offices, directory	98
Office of Hearings established as a separate entity	82
Organizational chart	99
Regional managers, directory	98
Section of Audit created	83
Staff officials	97
Staff reorganizations	83
Position papers issued	4
Procedural improvements	82, 87
Proceedings work. See Office of Proceedings.	
Proposed consolidation with CAB and FMC	6
Regional offices, directory	98
Resume of activities during fiscal year 1971	3
Role in establishing and implementing the basic national rail system	56, 92
Role in train discontinuance proceedings sharply curtailed	57
Transportation statistics, revenues, net investment and taxes, 1970	119
Legislative recommendations. See Legislative recommendations of Commission.	
Workloads:	
Caseload increased	82
Informal proceedings, disposition 1969, 1970, 1971	107
Proceedings and disposition of cases, fiscal 1969, 1970, 1971	105
Proceedings cases opened and closed fiscal 1971 compared to prior years	107
Rates, volume and disposition of cases, motor and rail, fiscal 1969, 1970, 1971	105
Common carriers. See Air carriers, Freight forwarders; Motor carriers; Pipelines; Rail carriers; Water carriers.	

	Page
Commuter operations. See Passengers, by type of carrier.	
Consumer protection:	
Measures instituted to protect consumers	14
Assisting the shipping public during cessation of transport	15
Consumer safeguards in movement of household goods ..	15
Correction of railroad service deficiencies	14
Investigation of railroad rate base	14
Plain language advice for the public	15
Refinement of railroad rate structure	14
Shippers assured early access to railroads' rate increase evidence	15
Containers:	
Development of newer designs in containerships	39
Increased use of containers in international trade	39
Statistics	39
Contract carriers. See Motor carriers.	
Coordination. See Carrier coordination.	
Corps of Engineers:	
Ton-miles, statistics	119, 120
Council on Environmental Quality:	
Cooperation with. See Interagency cooperation.	
Courts:	
Car ownership formula, district court decision appealed to Supreme Court	27
Commission directed by district court judge to rule on "com- muter" controversy	59
Court injunctive procedures	78
Data processing. See Automation.	
Defense planning. See Mobilization planning.	
Department of Commerce:	
Statistics	137, 139
Department of Justice:	
Cooperation with. See Interagency cooperation.	
Department of Transportation:	
Cooperation with. See Interagency cooperation.	
Participation in loan guarantee program	72, 90
Submitted preliminary and final reports on Railpax system ..	56
Discrimination:	
Proceeding instituted	9
Diversification:	
Carriers into noncarrier fields	67, 70

	Page
Holding company activities	73
Motor carriers	69
Railroads	67
Electric railways. See Rail carriers.	
Electronic data processing. See Automation.	
Elkins Act:	
Credit violations	79
Devices used by shippers and carriers	77
Protection of rate integrity	77
Rebate and concession cases	77
Emergency Rail Services Act of 1970:	
Loan guarantees	72, 90
Enforcement:	
Agricultural cooperatives cases	79
Court injunctive procedures	78
Credit regulations	79
Demand Forfeiture Procedure	80
Freight car service	76
Household goods shippers violations	16, 76
Insurance protection for the public	76
Intermodal overseas transportation	81
Leasing operations	78, 80
Rate equality requirement	76
Small shipments activities	76
Trends	80
Fitness program	80
Maintaining proper records	80
Unlawful operations	49, 78
Workloads statistics	110
Exemptions:	
Commercial zone exemptions, cases	45
Investigation proceedings	42, 47
Express companies:	
Railway Express Agency. See Railway Express Agency.	
Federal Claims Collection Act of 1966:	
Civil forfeiture actions	76, 78, 79
Federal Claims Collection Act procedures	79
Federal Maritime Commission:	
Cooperation with. See Interagency cooperation.	
Proposed consolidation with CAB and ICC	6
Federal Reserve Board:	
Statistics	139

	Page
Field offices. See Commission.	
Fourth Section Board:	
Statistics	109
Freight cars. See Rail carriers.	
Freight forwarders:	
Containers. See Containers.	
Ex Parte No. 266, Investigation into the Status of Freight Forwarders, discussed	52
Ex Parte No. 266 (Sub No. 1), Investigation into the Scope of Freight Forwarder Terminal Areas, instituted	53
Financial condition	71
Illegal transportation. See Unlawful carriage.	
Legislation recommended	53
Loss and damage claims, investigation	10
Ratemaking. See Ratemaking.	
Revenue, less taxes, from forwarder operations, net income, rate of return of class A freight forwarders, 1968-70	134
Revenues, expenses, income taxes, income, and employment of class A freight forwarders, 1968-70	133
Rulemaking proceedings	13
Tariffs. See Tariffs.	
Transportation revenues, class A freight forwarders, 1968-70, statistics	132
Unlawful carriage. See Unlawful carriage.	
General Services Administration:	
Cooperation with. See Interagency cooperation.	
Gray areas. See Unlawful carriage.	
Greyhound Corporation:	
Diversification activities	69
Guarantees of loans:	
Applications filed requesting modification of loans	73
Defaulted loans	73
Repayments as of June 30, 1971	73
Household goods carriers:	
Enforcement program	15, 76
General rate increase	23
Revised regulations, minor modification	8
Rulemaking proceedings	8, 12
Unlawful carriage. See Unlawful carriage.	
Inland water carriers. See Water carriers.	
Interagency cooperation:	
Civil Aeronautics Board	42
Council on Environmental Quality	9

	Page
Department of Justice	73
Department of Transportation	18, 56, 72
Federal Maritime Commission	23, 74, 81
General Services Administration	88
Office of Management and Budget	83
Securities and Exchange Commission	72, 91
Intercity traffic:	
Passenger operations	60, 61
Ton-miles, public and private	119
Ton-miles, regulated and unregulated	120, 140
Interstate Commerce Act, cited:	
Section 1(10-17)	94
Section 1(18-20)	35, 60
Section 5(14-16)	65
Section 13a(1)	55, 58
Section 13a(2)	55, 58
Section 20a	72
Section 22	95
Section 203(b) (5)	47
Section 203(b) (6)	48, 49
Section 203(b) (7a)	42
Section 203(b) (8)	46, 47
Section 210(a) (b)	65
Section 212(a)	51
Section 214	72, 79
Section 215	76
Section 216(b)	38, 94
Section 303(b)	91, 92
Section 306	92
Section 312a	53
Section 316	92
Section 403(f)	81
Interstate Commerce Commission. See Commission.	
Joint tariffs. See Tariffs.	
Legislative activities of Commission:	
Appearance before House Subcommittee on Transportation and Aeronautics, Commission responsibilities under the Rail Passenger Service Act of 1970 outlined	92
Appearances before House and Senate Committees on Appro- priations	89
House Special Subcommittee on Investigations, joint appear- ance with Securities and Exchange Commission, information furnished concerning investor protection	91

	Page
H.R. 19720, legislation requested by ICC in area of investor protection, introduced	91
House Subcommittee on Transportation and Aeronautics, testimony emphasized Commission's view of loan guarantee legislation as a temporary palliative, not a cure	89
House Subcommittee on Transportation and Aeronautics, testimony given regarding the Emergency Rail Services Act of 1970 and loan guarantee legislation	90
H.R. 1074, thirteen-period accounting year, testimony	93
H.R. 8298, water carrier mixing rule legislation, enactment supported	91
H.R. 19953, loan guarantees, testimony expressed approval ..	90
Progress of legislation recommended by Commission to the 92d Congress	111
Public Law 91-518, The Rail Passenger Service Act of 1970, implementation discussed	92
Public Law 91-590, water carrier mixing rule legislation, discussed	92
Public Law 91-663, loan guarantees, discussed	90
S. 1415, S. 1729, S. 1730 and S. 1731, freight car shortage legislation, testimony presented	94
S. 4011, S. 4014, and S. 4016, loan guarantees, testimony stressed need for a loan guarantee program separate from Penn Central crisis	89
Senate Committee on Commerce, information furnished relative to study being conducted concerning conglomerate activities and the financial condition of the Penn Central ...	90
Senate Select Committee on Small Business, testimony presented on the problem of increased cargo thefts	93
Senate Subcommittee on Surface Transportation, testimony given concerning Commission's evaluation of the financial condition of railroads	95
Legislative recommendations of Commission:	
Freight car supply	95
Freight forwarder legislation	53
Loan guarantees	73, 89, 95
Other areas which require legislation	36, 95
Proposal to develop new laws regarding conglomerates ..	67, 73, 91, 95
Restructuring of bankrupt railroads	95
Section 22 rates	95
Through routes and joint rates	95

	Page
Lehigh Valley Railroad Company:	
Petition for reorganization	72
Less-than-carload. See Small shipments.	
Loan guarantee. See Guarantee of loans.	
Loss and damage claims. See Freight forwarders; Motor carriers; Rail carriers.	
Louisville & Nashville-Monon:	
Merger case discussed	63
Managing Director:	
Automation. See Automation.	
Budget restrictions impact:	
Staff reductions	84, 86
Cost reduction	84
Evaluation program activities	83
Manpower development	86
Paperwork and records management	87
User charges:	
Committee to be established to consider further modifica- tions in fee schedule	88
User charge schedule revised under rulemaking proceed- ing, Ex Parte No. 246	88
Mergers. See also Rail carriers; Motor carriers; Water carriers.	
Conglomerate and diversification activities discussed	67-70
Conglomerate holding companies, financial data	68, 69
Effect of Tax Reform Act of 1969 on conglomerates and diversifications	67
Intermodal acquisitions	65
Unifications	63-66
Vertical integration discussed	69
Mobilization activities. See Mobilization planning.	
Mobilization planning:	
National Defense Executive Reserve Unit status	86
Motor Carrier Lawyers' Association, Committee on Procedure:	
Proposed revision of discovery practices	82
Motor carriers:	
Brokers of passenger traffic. See Brokers.	
Buses:	
Bus fare increase	62
Intercity scheduled service improved	62
Local and suburban scheduled service declined	62
Passenger operations percentages, 1970 and 1969	61
Passenger service, statistics	61
Passenger statistics, 1970 and 1969	61

	Page
Charter and special services, statistics	61, 62
Containers. See Containers.	
Contract carrier operations, cases discussed	44
Enforcement problems, proceedings	78
Expenses, income, and employment of class I intercity motor carriers of passengers, 1968-70, statistics	128
Expenses, income, and employment of class I intercity motor carriers of property, 1968-70, statistics	126
Finance applications. See Office of Proceedings, Section of Finance.	
Financial condition	71
Growth of operating revenues, by mode of transportation, 1960-70	137
Hennis Freight Lines, Inc. reorganization	65
Household goods carriers. See Household goods carriers.	
Intercity passenger operations, 1970 and 1969	61
Intercity ton-miles, percentage regulated and non-regulated	120, 140
Intercity ton-miles, public and private	119
Local and suburban services, statistics	61
Loss and damage claims, proceedings instituted	10, 93
Mergers:	
Applications involving section 210(a) (b)	65
Cases involving pooling of carrier services	64
Cases involving violation of leasing regulations	64
Conglomerates and diversifications, current situation	69
Handling of merger cases on a flexible, individual basis	64
Proposals involving control of motor carriers conducting duplicate operations	65
Significant cases	64
Mobilization planning. See Mobilization planning.	
Net carrier operating income, net income, and rate of return, class I intercity motor carriers of passengers, 1968-70, statistics	128
Net carrier operating income, net income, and rate of return, class I intercity motor carriers of property, 1968-70, statistics	127
Operating authority applications. See Office of Proceedings, Section of Operating Rights.	
Operating revenues, class I intercity motor carriers of passengers, 1968-70, statistics	127
Operating revenues, class I intercity motor carriers of property, 1968-70, statistics	125
Operating rights applications. See Office of Proceedings, Section of Operating Rights.	

	Page
Passenger carriers:	
Growth of operating revenues, by mode of transportation, 1960-1970	137
Passenger operations, 1970 and 1969, statistics	61
Revenue changes, 1970-69	61
Revenues, net investment, and taxes, 1970	119
Piggyback service	39
Property carriers:	
Growth of operating revenues, by mode of transportation, 1960-1970	137
Revenues, net investment, and taxes, 1970	119
Ratemaking. See Ratemaking.	
Reorganizations	65, 72
Revenues, net investment, and taxes, 1970	119
Rulemaking proceedings	12
Securities applications	72
Small shipments. See Small shipments.	
Tariffs. See Tariffs.	
Ton-miles	119, 120, 140
Trailer-on-flatcar, statistics	39
Unlawful operations. See Unlawful carriage.	
National Environmental Policy Act of 1969:	
Implementation	9
National Executive Reserve Unit. See Mobilization planning.	
Non-regulated carriers. See Unlawful carriage.	
Office of Management and Budget:	
Cooperation with. See Interagency cooperation.	
Management improvement program, implementation	83
Office of Proceedings:	
Section of Finance:	
Abandonment, construction, acquisition, operation, under section 1(18)	35, 37
Conglomerates	67
Discontinuance proceedings	55
Diversification	67
Holding companies	67
Loan guarantees, applications	72, 73
Railroad reorganization proceedings	72
Securities applications	72
Unification proceedings	63
Section of Operating Rights:	
Adequacy of existing carrier service, cases considered ...	43

	Page
Air terminal areas considered, guidelines established	42
Applications for surface forwarding authority filed by air freight forwarders	41
Caseload statistics	107
Cases involving household goods	7
Commercial zone exemptions considered	45
Entry control discussed	41
Exempt operations, cases providing guidelines	47
Freight forwarder operations, proceedings instituted	52
Freight loss and damage claims, proceedings instituted	10
Incidental-to-air exemption, cases considered	42
Intermodal air-surface operations, additional service needed	41
Intermodal authority applications	41
Intrastate and interstate operations, case discussed	52
Motor carrier operating authority applications, increased caseload	41
Motor contract carriers, applications considered	44
Multilevel rail car operations, case discussed	53
Private vs. for-hire carriage, case discussed	49
Revocation of water carrier authority, cases considered	53
Revocation or modification of certificates, case discussed	44
Rulemaking proceedings instituted	7-13
Surface transportation of baggage usually carried by air- line passengers, regulations prescribed	43
Unlawful operations, cases considered	49
Violation of State laws in heavy haul operations, case considered	52
Section of Rates and Practices:	
Proceedings, statistics	105
Oil pipelines. See Pipelines.	
Operating rights. See Office of Proceedings.	
Passenger service. See Motor carriers; Rail carriers.	
Passengers. See Motor carriers; Rail carriers.	
Penn Central Transportation Company:	
Reorganization	56, 59, 63, 72, 90
Piggyback service. See Motor carriers; Rail carriers; Water carriers.	
Pipelines:	
Financial condition	71
Growth of operating revenues, by mode of transportation, 1960-1970	137

	Page
Intercity ton-miles, percentage regulated and non-regulated, 1969	120, 140
Intercity ton-miles, public and private	119
Net revenue from operations, net income, and rate of return, oil pipeline companies, 1968-70, statistics	136
Revenue, expenses, income, and employment of oil pipeline companies, 1968-70, statistics	135
Revenues, net investment, and taxes, 1970	119
Position papers. See Commission.	
President's Advisory Council on Executive Organization (The Ash Council):	
Recommendations	6
Report of Commission rejecting the Ash Council's recommendations discussed	6
Private automobiles:	
Increased use of	62
Private car lines. See Rail carriers.	
Rail carriers:	
Abandonments:	
Certificates of convenience and necessity issued for abandonment, construction, acquisition and operation of lines of railroad, statistics	37
Handling of abandonment cases, legislation required ...	36
Processing of abandonment cases, modified procedure ...	36
"Public convenience and necessity", the guideline for abandonment cases	35
"Regionalized" abandonments	36
Significant cases	36
Assets and liabilities, class I line-haul railroads, 1970-71 ...	122
Boston & Maine Corporation inclusion and reorganization discussed	64, 72
Boston & Providence Railroad, reorganization plan consummated	72
Carline operating income before income taxes, net income, rate of return of refrigerator carlines owned or operated by railroads, 1968-70, statistics	125
Carrier coordination. See Carrier coordination.	
Cars:	
Activities to alleviate shortages	25, 26
Basic and incentive per diem rates effective September 1, 1970	27

	Page
Canadian railroads' petition concerning payment of incentive per diem charges reconsidered	28
Car Service Rules 1 and 2, enforcement restrained by court order	27
Causes of car shortage	25
Contributing factors to car shortage	25
Improved utilization of available fleet	26
Increased capacity of new freight cars	26
Increased use of specialized cars	26
Inefficient and improper car handling practices investigated and corrected	26
Legislation to increase the nation's freight car supply considered	26
Listing of car service orders, distribution directives, re-routing orders and embargoes	31-35
Situation	25
Supply, statistics	26, 29
Trends	26
Central Railroad Company of New Jersey (Jersey Central), reorganization	72
Commuter service:	
"Commuter" controversy	57
Commuter operations, 1970 and 1969, percent change ..	60
Economic data	60
Trends	61
Condensed income account, class I line-haul railroads, 1968-70, statistics	123
Containers. See Containers.	
Electric railways:	
Intercity ton-miles, public and private	119
Enforcement problems, proceedings	77
Exemptions. See Exemptions.	
Finance applications. See Office of Proceedings, Section of Finance.	
Financial condition	71
Trends	71
Freight car shortages	25
Freight cars, statistics	29, 30
Growth of operating revenues, by mode of transportation, 1960-70	137
Guarantee of loans. See Guarantee of loans.	
Intercity ton-miles, percentage regulated and unregulated ..	120, 140

	Page
Intercity ton-miles, public and private	119
Lehigh Valley Railroad Company, petition for reorganization	72
Loan guarantees	73
Loss and damage claims, investigation	10
Mergers:	
Boston & Maine inclusion case discussed	64
Cases discussed	63
Conglomerates and diversifications, current situation ...	67
Illinois Central-Gulf, Mobile & Ohio merger, report on proposed consolidation being prepared	63
Louisville & Nashville-Monon merger discussed	63
Norfolk & Western-Chesapeake & Ohio merger proposal withdrawn	63
North Western Employees Transportation Company pro- posal, hearings completed	63
Mobilization planning. See Mobilization planning.	
Net railway operating income, net income, and rates of return, class I line-haul railroads, 1968-70, statistics	122
Number and compensation of employees, class I line-haul rail- roads, 1968-70, statistics	123
Passenger service:	
Amtrak, a quasi-public corporation, commenced opera- tion of intercity passenger service	55, 56, 59
Auto-train service discussed	59
"Commuter" controversy discussed	57
Decline and deficits	55, 60, 61
Discontinuances	55
Points in the basic national rail system designated	56
Quality of service	59
Rail passenger fare increase	60
Rail Passenger Service Act of 1970 (Railpax) enacted to preserve necessary passenger service	55
Service situation	55
Statistics	60
Penn Central Transportation Company, reorganization	56, 59, 63, 72
Piggyback service:	
Current situation	39
Piggyback trailer and container terminations, class I rail- roads by plan, 1964-1970	138
Privately owned cars:	
Number of	125
Ratemaking. See Ratemaking.	
Reorganizations	64, 67, 72, 90

	Page
Revenues, expenses, and income, class I line-haul railroads, 1968-70, statistics	121
Revenues, expenses, income, employment of refrigerator car lines owned or controlled by railroads, 1968-70, statistics	124
Revenues, net investment, and taxes, 1970	119
Rulemaking proceedings	11
Securities applications	73
Selected statistics of nonrailroad controlled private car owners, 1968-70, statistics	125
Shareholders' equity and long-term debt and dividends, 1968-70, statistics	120
Small shipments. See Small shipments.	
Tariffs. See Tariffs.	
Taxes and equipment rents, class I line-haul railroads, 1968-70, statistics	122
Trailer-on-flatcar service	39
Train discontinuance, passenger service	55
Cases discussed	56
Commission's role in train discontinuance proceedings sharply curtailed	57
Unifications. See Mergers, above.	
Unlawful operations. See Unlawful carriage.	
Rail Passenger Service Act of 1970 (Railpax):	
Amtrak, a quasi-public corporation, created	55
Operations commenced May 1, 1971	56, 59
Railpax enacted October 31, 1970	55
Commission's role in establishing and implementing the basic national rail system	57, 92
Railpax. See Rail Passenger Service Act of 1970.	
Railway Express Agency:	
Revenues, net investment, and taxes, 1970, statistics	119
Ratemaking:	
Cost studies to measure shifts in cost-revenue relationships discussed	18
General rate increases, cases discussed	18, 23
Less-than-carload class rate structure reviewed	22
Railroad rate base in measuring rate of return, investigation proceeding instituted	14, 19
Requests for across-the-board increases on freight discussed	19
Structure of railroad rates, investigations instituted	18
Trends	17, 19, 22

	Page
Released Rates Board:	
Statistics	109
Rulemaking proceedings. See also Office of Proceedings.	
Carrier discrimination practices	9
C.O.D. and freight collect shipments	9, 39
Environmental issues	8
Household goods transportation, investigations	7
Listing of current rulemaking cases	11
Loss and damage claims	10
Regulation through rulemaking discussed	7
Rules broadening public participation	10
Securities and Exchange Commission:	
Cooperation with. See Interagency cooperation.	
Securities. See Freight forwarders; Motor carriers; Rail carriers; Water carriers.	
Shippers:	
Illegal operations. See Unlawful carriage.	
Small shipments:	
Containers. See Containers.	
Decline in complaints in small shipment service	38
Limitations on service, proceedings instituted	9, 38
Problems and situation	38
Rate revision	22, 23
Rulemaking proceeding instituted to consider need for maintenance of service request records	38
Tariffs:	
Freight rates, significant cases discussed	18, 23
General rate increases approved	18, 23
Household goods carriers, general rate increase allowed	23
Increased demurrage charges and rule changes proposed, case considered	21
Inspection in transit of grain and grain products, proposed charges considered	21
Intermodal cooperation, case discussed	23
Multiple-car export rates proposed, cases discussed	20
Postage zone rates on fourth-class mail increased	23
Ratemaking. See Ratemaking.	
Reduced export rates on grain canceled, case discussed	19
Rent-a-train rates considered	19
Reparations, case considered	22
Small shipment rate revision	22, 23
Tariffs and schedules, fiscal year 1971	108

	Page
Through routes and joint rates, case considered	23
Transit charges and track storage charges, cases discussed	20
Updating of railroad tariffs discussed	23
Waterborne traffic, increased charges considered	20
Tax Reform Act of 1969. See Mergers.	
Ton-miles, intercity. See Intercity traffic.	
Trailer-on-flatcar service. See Rail carriers.	
Train discontinuance, passenger service. See Rail carriers.	
Transportation Act of 1958:	
Amendment to section 203(b) (6) discussed	48
Part V, Guarantee of loans	73
Transportation statistics:	
Carriers subject to regulation	118
Employment statistics	123-135
Growth of operating revenues, by mode of transportation, 1960-70	137
Indexes of intercity ton-miles, industrial production and gross national product, 1960-1970	139
Revenues, net investment, and taxes, 1970	119
Trends:	
Charter and special services	62
Freight cars	26
Highlights	71, 80
Piggyback service	39
Rail passenger service	60
Ratemaking	17, 22
Train discontinuances	55
Unlawful carriage:	
Agricultural cooperatives exemption cases	79
Brokers' activities. See Brokers.	
Contract carriage	79
Court injunctive procedures	78
Credit extension violation, cases	79
Devices used by shippers and carriers, cases	77
Free services	78
Freight forwarders	81
Gray areas	49
Household goods carriers violations	16, 76
Illegal operations	49, 78, 81
Misrepresentation and misapplication devices	77
Motor carriers	78
Rail carriers	77

Rebates and concessions	77
Unauthorized cartage allowance	77
Violations involving order bills of lading	77
Unregulated carriers. See Unlawful carriage.	
Water carriers:	
Containers. See Containers.	
Exemptions. See Exemptions.	
Expenses and income of classes A and B carriers, 1968-70, statistics	130
Financial condition	71
Gross profit, net income and rate of return of maritime carriers, 1968-70, statistics	132
Growth of operating revenues, by mode of transportation, 1960-70	137
Intercity ton-miles, percentage regulated	120, 140
Intercity ton-miles, public and private	119
Mergers	65
Mobilization planning. See Mobilization planning.	
Net revenue from waterline operations, 1968-70, statistics	131
Piggyback service	39
Ratemaking. See Ratemaking.	
Revenues and expenses of maritime carriers, 1968-70, statistics	131
Revenues, net investment, and taxes, 1970	119
Revenues of classes A and B carriers, 1968-70, statistics	129
Rulemaking proceeding	13
Tariffs. See Tariffs.	
Taxes, income and employment of maritime carriers, 1968-70, statistics	131
Ton-miles, statistics	119, 120, 140



1



385.731

Un 3

1971/72

Commerce

ICC

86th Annual Report to Congress

1972

INTERSTATE COMMERCE COMMISSION

THE LIBRARY OF THE

FEB 14 1973

UNIVERSITY OF ILLINOIS
AT URBANA-CHAMPAIGN

BERNARD





86th Annual Report of the
**INTERSTATE
COMMERCE
COMMISSION**

Fiscal Year Ended June 30, 1972



For sale by the Superintendent of Documents, U.S. Government Printing Office
Washington, D.C. 20402 - Price \$1.25 (paper cover)

Stock Number 2600-00872

THE COMMISSION

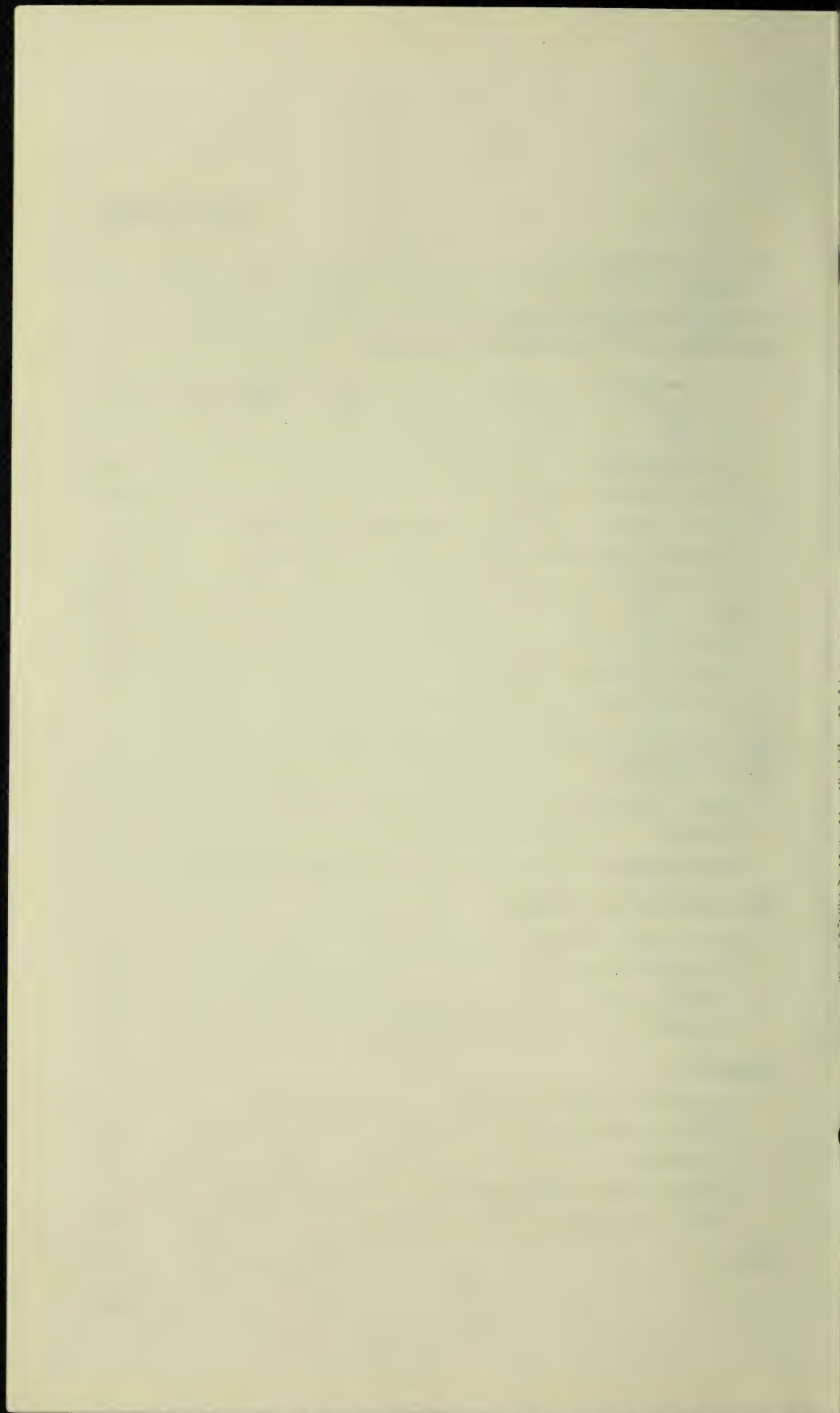
		<i>Appointed</i>	<i>Term expires December 31</i>
George M. Stafford, <i>Chairman</i>	(R) Kans...	1967	1973
Robert C. Gresham, <i>Vice Chairman</i> . (R) Md. . . .		1969	1974
Kenneth H. Tuggle.	(R) Ky	1953	1975
Rupert L. Murphy.	(D) Ga	1955	1978
John W. Bush.	(D) Ohio . . .	1961	1971
Virginia Mae Brown.	(D) W. Va. .	1964	1977
Willard Deason.	(D) Tex. . . .	1965	1972
Dale W. Hardin.	(R) Va. . . .	1967	1977
W. Donald Brewer	(R) Colo. . .	1970	1976

Commissioners Laurence K. Walrath and Donald L. Jackson retired in June 1972 prior to completion of their terms of office. Their successors had not been confirmed by the Senate at the close of the fiscal year.

Organization chart and staff directory appear in Appendix A.

CONTENTS

The Commission	ii
Introduction	1
Protecting the Consumer	2
Regulation of the Carrier Industries:	
Conglomerates	4
Securities	4
Railroads	7
Motor Carriers	29
Freight Forwarders	46
Water Carriers	49
Express Companies	53
Oil Pipelines	54
Intermodal	52, 55
Tariffs	56
Loss and Damage	59
The Environment	61
Enforcement	64
Administration:	
Formal Procedure	71
Caseload	72
Management	72
Development of Policy:	
Rulemaking Actions	75
Price Stabilization	79
Court Actions	80
Legislation	86
Appendix:	
Commission Organization	99
Commission Workload	107
Publications	127
Appropriations and Employment	129
Carrier Financial and Statistical Data	131
Index	147



To the Congress of the United States:

WASHINGTON, D.C., *December 29, 1972.*

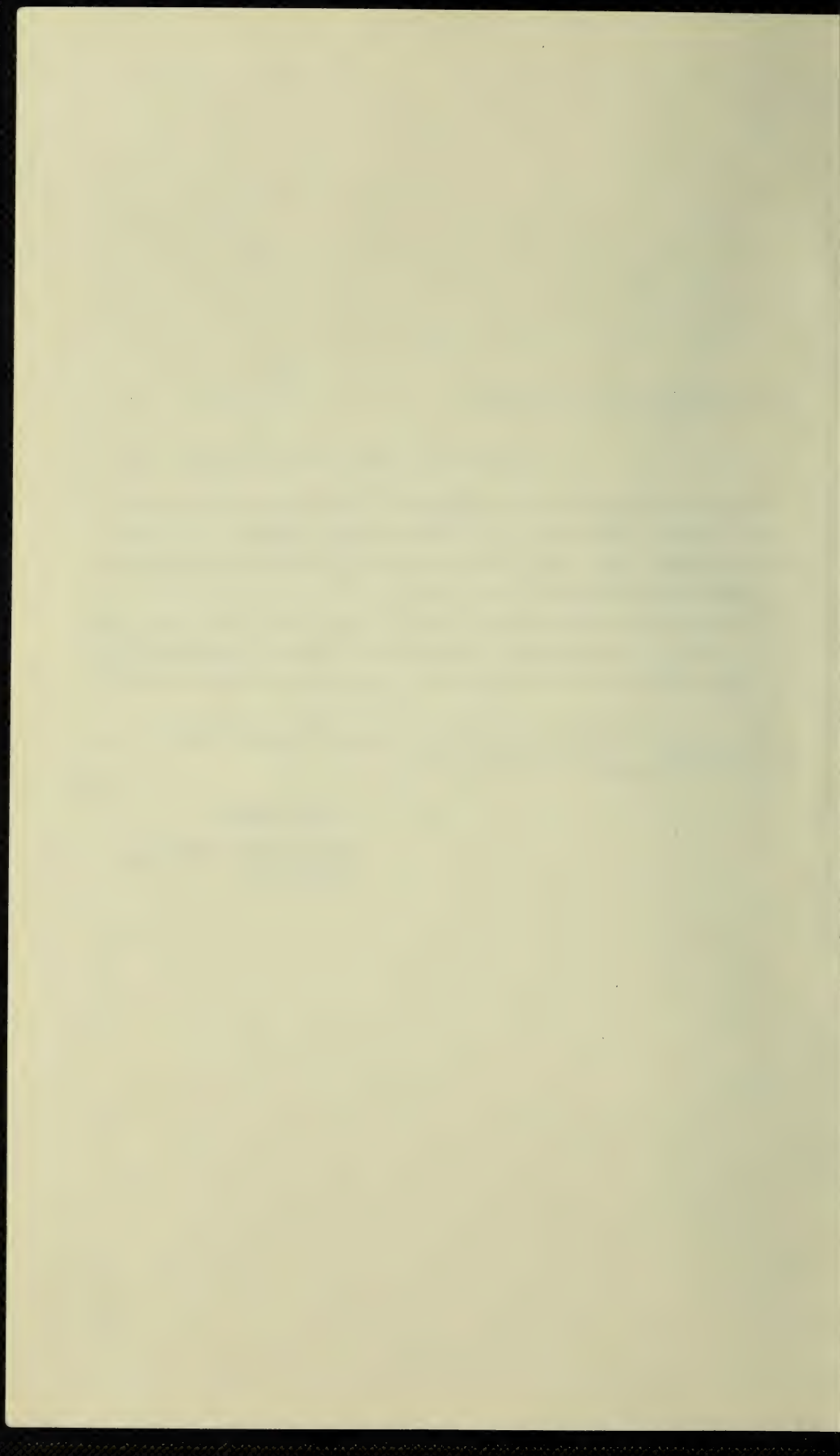
It is my pleasure to submit the eighty-sixth Annual Report of the Interstate Commerce Commission, in accordance with section 21 of the Interstate Commerce Act. This report documents Commission activities and accomplishments during fiscal year 1972.

The report generally embraces the 1972 fiscal year ended June 30, 1972, except in the discussion of significant actions that transcend the 12-month period or where necessary to conform to various statistical analyses.

The statement of appropriations and aggregate expenditures for the 1972 fiscal year appears in Appendix D.

Respectfully,

GEORGE M. STAFFORD
Chairman



INTRODUCTION

This is a report of the activities of the Interstate Commerce Commission for the 1972 fiscal year beginning July 1, 1971, and ending June 30, 1972.

It is a report of 11 Commissioners assisted by a staff of 1,670, two-thirds of whom serve at the headquarters in Washington, D.C., with the remainder situated in 78 offices throughout the country. It is a report that summarizes the manner in which the agency handled:

- 8,858 formal cases, principally involving rates, operating rights, and finance proceedings.
- 11,011 informal cases, acted on under public observation but without the need for public hearing.
- 259 challenges in the Federal Court system.
- 288,820 tariffs requiring agency review, with an average of 3,667 pages of tariff material received each working day.
- 593 examinations of accounting systems of regulated carriers.
- 14 appearances before Congressional Committees.
- 576 prosecutions of violators of the Interstate Commerce Act or Commission orders.

For purposes of historical continuity the appendix and statistical material in this report generally follow earlier presentations. The narrative organization has been refined somewhat to reflect the changing conditions confronting transportation regulation. For example, a new section (page 61) reviews environmental protection actions that have become necessary for the maintenance of the balance between ecological needs and public transportation needs.

Another addition to this year's report can be found in the court actions section (page 80). Actually this represents reinstitution of a standard inclusion which was discontinued a few years ago. In recognition of the impact of judicial review actions, this discussion has been grouped in one chapter (page 75) with other aspects of policy developments, such as rulemaking, legislation and the unique regulatory requirements that were an outgrowth of wage and price stabilization programs.

PROTECTING THE CONSUMER

Although consumer protection has become a catch phrase in recent years, the actual involvement of the Interstate Commerce Commission has existed since 1887, when it became the first independent regulatory agency with specific authority in this field. The first 80 or so years of this regulation, though, were somewhat different in both direction and emphasis from the programs that have evolved in the past few years. A general strengthening and reinforcement of position has occurred, leading to a more comprehensive recognition of the consumer's needs as a special requirement within the overall protection of the public interest. This was a result of various factors: the increased inquiries of consumer-minded citizen organizations and Congressional forces; the Administration's concern for this area; and broader participation by the public in seeking the full protection offered by the Interstate Commerce Act.

Interstate Commerce Commission actions in support of consumer protection generally fall into two categories: transportation rates and transportation service.

Rates.—The prices paid by consumers for transportation services are required by the Interstate Commerce Act to be reasonable and nondiscriminatory. While consumers want and need the lowest possible transportation rates, the determination of reasonable levels must be carefully weighed against the needs of the carriers for sufficient revenues to engender the viable financial structure that our transportation systems require in order to develop and maintain a full range of service for the public. Out of this balance the consumer found interstate surface transportation to be one of his best dollar-value purchases this year. Rates generally rose at a slower pace than other indices of the cost-of-living. Many rates were lower than 20 years ago.

Most of the Commission's actions to protect the public against unreasonable rates have become so commonplace that the consumer is unaware of the protection he is receiving. As the ultimate purchasers of economic goods and services, consumers are the beneficiaries of the rate regulation by which the Commission seeks to foster and maintain an efficient and dependable transportation system adequate to meet the needs of the consumers and the national economy.

Service.—Although the Commission exercised a broad surveillance over all of the services provided by regulated carriers, three consumer areas came in for special attention this year: movement of household goods, railroad freight car shortages, and loss and damage to commodities shipped by regulated carriers.

Our household goods rules (49 CFR 1056) that went into effect in 1970 gave consumers more protection than ever for their cherished possessions when transported by regulated carriers (see page 41). We concentrated this year on an extensive enforcement program to obtain complete observation of the rules by household goods carriers, and we attempted to ensure that consumers were fully aware of the protection offered. The public was encouraged through nationwide broadcasts of public service announcements to check with local ICC offices for guidance and assistance prior to engaging a household goods carrier. Shippers' perennial confrontation with railroad freight car shortages witnessed a unique situation this year—a year-long period without serious, prolonged car shortages (see page 23). As for the loss and damage encountered by consumers during shipment of the products they need, the Commission this year issued strong rules (340 ICC 515) requiring carriers to acknowledge receipt of each claim, investigate it promptly, and dispose of it within a specified time or provide an explanation for the delay (see page 59).

REGULATION OF THE CARRIER INDUSTRIES

Conglomerates

Legislation which would grant the Commission additional authority over acquisitions by holding companies of carriers was introduced in the Congress (S. 2630 and H.R. 11030) on September 30, 1971. The proposal would require Commission authorization for acquisition of control of carriers by noncarrier persons, or by two or more such persons jointly, where operating revenues exceed \$5 million for railroads and \$1 million for other carriers. The Commission could subject the noncarrier to specified provisions of the Interstate Commerce Act, including the provisions relating to the issuance of securities. Under the plan, if a proposed issuance were unrelated to activities of a controlled carrier, it would be subject to the concurrent jurisdiction of the Securities and Exchange Commission.

The legislation would also permit inquiry into transactions between the carrier and its affiliate to determine whether such transactions would impair the carrier's ability to meet the public's transportation needs. If, after hearing, the Commission were to find an impairment, it might then require that all future transactions be placed under its scrutiny or require remedial action including, if warranted, divestiture of control. Holders of 1 percent of the capital stock or capital of rail carriers, and 5 percent of other carriers, would be required to submit descriptions of their interests.

Pending consideration by the Congress of the proposed or similar legislation, the Commission, within the limitations existing under the present provisions of the law, will continue its attempt to insure protection of carriers by subjecting noncarrier holding companies subject to our jurisdiction to the appropriate provisions of the law respecting reporting and the issuance of securities.

Securities

With the proliferation of corporate conglomerates in the field of transportation, we are concerned about the ease with which carrier assets or credit might be used, and carrier properties might be encumbered for the

benefit of noncarrier affiliates by transactions outside our regulatory surveillance. Our concern is compounded by the fact that carrier resources are being consumed and carrier indebtedness is being enormously expanded through transactions of a kind considered to be beyond our jurisdiction.

For these and other reasons we instituted a rulemaking proceeding to obtain views on whether the situation warrants expanded regulatory activity over the issuance of securities and over evidence of carrier indebtedness. Numerous expressions were filed by carriers, members of the financial community which ministers to the specialized requirements of the transportation industry, and others having an interest in the subject. After considering these views, we concluded ¹ that the Commission's historical interpretations as to what constitutes a security is essentially fair and correct. We found, however, that in securities cases additional data on the carriers' financial and debt structure would be appropriate, and it was proposed that the regulations be changed to meet this requirement. Before our decision went into effect we reopened the proceeding for further consideration.

A different facet of securities regulation is being analyzed in another rulemaking proceeding ² to determine whether adequate notice and disclosure is being given to the public when a carrier offers its securities for sale to the public. We are exploring here the marketing of carrier securities in direct and secondary offerings, and current practices in the securities market, to the end of insuring that the investing public's right to accurate and sufficient information is fully satisfied.

Intercorporate transactions within a conglomerate can deplete the resources of a carrier affiliate and jeopardize the carrier's ability to perform its transportation obligations to the public. In one instance a loan agreement executed by a noncarrier parent was guaranteed by a carrier subsidiary. Considering the general condition of the carrier, including a weak working capital position, the obligation incurred through the loan guarantee was an apt matter for regulatory scrutiny. We decided ³ that, while the parent corporation's loan agreement was not subject to our jurisdiction under section 214, the carrier's guarantee was, and required our prior authorization, since it involved an agreement of the type held to be a security in *Transcontinental Bus System, Inc., Notes*, 80 MCC 54.

¹ Ex Parte No. 275, *Expanded Definition of Term "Securities"*, 340 ICC 817.

² Ex Parte No. 279, *Securities Regulations—Public Offerings, Form of Offering Circular Required for Public Sales of Securities Authorized Under Section 20a or 214 of the Interstate Commerce Act*.

³ *Mutrie Motor Trans. Assumption of Obligation and Liability*, 115 MCC 566.

Appropriate remedial action was required to preserve the carrier's operating ability.

In determining the scope of its jurisdiction over carrier securities and in appraising a particular securities transaction, the Commission looks into the substance of the transaction as manifested by agreements, documents, memoranda, and any other available evidence. Whether or not a classic form is used is not by itself determinative. In one instance, we ruled ⁴ that the delivery of a loan receipt in connection with an unwritten loan agreement was an issuance of a security requiring Commission authorization under section 214. Although the unwritten agreement between the parties may not be subject to the provisions of the act, the Commission held that the loan receipt has all the attributes of a note since it sets forth the amount of the indebtedness, the name of the lender, the time of repayment, the rate of interest and provisions for acceleration of maturity of the debt.

In the report of the Commission, Division 3, in *Florida East Coast Railway Co. Stock*, decided April 25, 1972, authority was granted applicant to issue shares of common stock in exchange for its outstanding mortgage bonds, on the basis of 40 shares of common stock for each \$1,000 principal amount of bonds. Protesting minority stockholders objected to the proposal, especially to the exchange ratio.

In approving the transaction, we found that the Commission has an obligation and duty to protect minority stock interests, but that considering the legislative intent of section 20a(2) and the standards established in the act, the Commission is not required to substitute its judgment for that of management in situations where managerial discretion is properly exercised. By the proposed plan, the carrier could eliminate its sole outstanding long-term debt and the attendant obligations, including annual sinking fund requirements and interest payments. The transaction could thus preserve working capital, and, by substituting equity securities for debt, offer a hedge against economic downturn.

While we have found the transaction to be a reasonable one, we will have further opportunity to consider it on the basis for representations by minority stockholders who filed petitions for reconsideration.

During the fiscal year railroads filed 66 applications for authorization to issue securities under section 20a of the Interstate Commerce Act.

Railroads also filed four special applications for exemption from the Commission's competitive bidding requirements. These requests usually

⁴ Finance Docket No. 26691, *Eastern Freightways, Inc., Note Assumption of Obligation and Liability, and Loan Agreement*, also embracing *Eastern Freightways, Inc.—Control—National Transportation Co.*, 116 MCC 85.

result from the instability of market conditions with respect to railroad securities, and permit the carriers to negotiate the sales of securities privately.

The Erie-Lackawanna Railroad Co. attempted to revise its debt structure and thereby forestall bankruptcy while working toward improved financial and operating strength. This effort was through a section 20b application for modification of several series of its outstanding bonds, a portion of which were pledged as security for a U. S. Government guaranteed loan. The matter was assigned Finance Docket No. 27039; but before any progress could be made, Erie Lackawanna's territory was struck by Tropical Storm Agnes, which so badly damaged the railroad and its customers that the railroad was impelled to file a petition in reorganization under section 77 of the Bankruptcy Act.

Railroads

Fiscal year 1972 was marked by several events with adverse economic impact on the rail industry. There was a drop in steel production in the first half of the year, in addition to selective rail walkouts. Protracted work stoppages at coastal ports and in the coal industry combined with a general economic sluggishness that seriously affected railroad traffic. Measured in ton-miles, traffic volume for the first half of fiscal 1972 was 7.7 percent below the corresponding figure for 1971. Despite this decline, earlier established rate increases resulted in a general rise in revenues, but the effects were not uniform throughout the industry. With the anticipated steady strengthening of the economy the rail traffic picture should improve; the financial outlook for class I carriers remains less optimistic.

Even with the stimulating revenue/income records of various healthy railroads, there was no overlooking the impact of the five lines in reorganization throes under the bankruptcy laws and the sixth line that slipped into this category at the close of the fiscal year. These lines represented over one-fifth of class I carriers' investment in transportation property, with annual losses exceeding half a billion dollars.

The encouraging performance and promising outlook for southern and western roads contrasts sharply with the northeastern roads' situation. On an industrywide basis, 1966 was the last generally good year for rail operations. And, on an industrywide basis, which is how the railroad industry must be viewed, substantial improvements in operating economies will be necessary if railroads are to maintain their ability to provide adequate service to the Nation.

More than any other form of transportation, the railroad network exists as a national system, with no single segment able to remain unaf-

fectured by local or regional deterioration. It is clear that the Nation must find better solutions for this industry's problems in the future than it has in the past.

Recognizing an urgent need for railroad financial information, the Commission, in Docket No. 33687 (Sub. No. 3), *Quarterly Operating Reports—Railroads*, prescribed the filing of revised Form RE&I, *Quarterly Reports of Revenues, Expenses and Income*, and Form CBS, *Quarterly Condensed Balance Sheet*, effective January 1, 1972. The early detection of carriers in financial distress is a prime concern to the Commission, and the data reported on forms RE&I and CBS provided the background information needed for this purpose.

Loan Guarantees.—The railroad loan program administered by the Commission under part V of the act, had been reduced to \$157,786,854 as of June 30, 1972, as compared to \$161,789,259 a year earlier. This year the United States paid \$29,329,611, representing principal and interest on the defaulted guaranteed loan to the Reading Co. As provided by law the Department of Justice will take steps to recover the amount paid from the defaulting railroad.

In June 1972, the Erie Lackawanna Railway Co. filed a petition for reorganization under section 77 of the Bankruptcy Act, constituting a default on its \$12 million guaranteed loan. Procedures were instituted for the United States to pay that loan, plus interest, in fiscal year 1973.

There were four petitions filed during the year to modify the provisions of various part V loans.

The Commission recommended to the Congress a 10 year extension of the 15-year statutory period to which part V loans are limited. Soon after the close of the fiscal year, the recommendation was passed into law as Public Law 92-348.

Reorganization and Bankruptcies.—Four additional railroads have gone into reorganization under section 77 of the Bankruptcy Act: Reading Co., Cadillac & Lake City Railway Co., Lehigh & Hudson River Railway Co., and Erie Lackawanna Railway Co.

The Central Railroad Co. of New Jersey terminated its operations in the State of Pennsylvania, and to preserve service, the Lehigh Valley Railroad Co. was authorized to take over the operations. Hearings were held on several plans for reorganization of the Boston & Maine Railroad, and a reorganization plan also was filed by Cadillac & Lake City Railway Co. Trustees of Penn Central Transportation Co. filed with the District Court a preliminary plan for reorganization, setting forth their longrange objectives. Penn Central was able to report a significant decline in losses.

Unifications.—Two major rail unifications were authorized by the Commission during the year. The consolidation of the properties of the Illinois Central Railroad Co. and Gulf, Mobile & Ohio Railroad Co. into a new company, the Illinois Central Gulf Railroad Co., was approved.⁵ We required, however, that the Union Pacific Railroad and three voting trustees divest themselves within 10 years of any stock holdings in Illinois Central Industries, the holding company which controls the Illinois Central Railroad.

The Commission noted that Brown Brothers, Harriman & Co. was represented on the board of directors and several committees of Illinois Central while owning approximately 350,000 shares of Union Pacific stock. In addition three partners in Brown Brothers, Harriman & Co., were on the board of directors of Union Pacific and two partners were on the executive committee. Accordingly, the Commission required that none of the stock to be divested be transferred to Brown Brothers, Harriman & Co. or to any affiliates or Harriman family members. Approval was further conditioned upon inclusion in the new system of the Bonhomie & Hattiesburg Southern Railroad, the Fernwood, Columbia & Gulf Railroad, and the Columbus & Greenville Railroad, each an independently owned shortline in Mississippi. Upon consummation of the unification, the new railroad will operate over 9,400 miles of track in 13 States, extending through mid-America from Minnesota to Louisiana.

The Commission also authorized the purchase of the railroad properties and related motor carrier operating rights of the Chicago and Northwestern Railway Co. by a group of the railroad's employees known as the North Western Employees Transportation Corp. (NETCO). The novel proposal for employee ownership of a major rail carrier raised the prospect of vesting ownership in individuals with a personal interest in the efficient and economical operation of the carrier. C & NW was controlled by Northwest Industries, a holding company, which stated that the railroad was strictly on its own financially and could expect no help from its parent. The Commission concluded that its approval would create a company whose sole interest was operating the railroad, rather than a disinterested conglomerate parent whose effort was admittedly directed toward making more attractive investments elsewhere. Additionally, approval would remove the dangers of improvident investments by a parent corporation which might adversely affect the carrier's financial condition.

About 14,000 employees were offered the opportunity to purchase stock in NETCO according to a scale graduated in relation to annual salaries. During the first 10 years of its existence, NETCO will be con-

⁵ *Illinois Cent. Gulf R.—Acquisition—G., M & O, et al.*, 338 ICC 805.

trolled by three trustees, whose trusteeship and compensation are subject to Commission review and approval. The Commission also imposed conditions to protect minority shareholders and to restrict NETCO in the acquisition of noncarrier properties without prior Commission approval, and required that all prospective purchasers of stock in NETCO be fully informed of the terms of the purchase as well as the risks involved (*North Western Employees Transp. Co.—Purchase—C. & N.W. Railway Co.*, 342 ICC 58).

Abandonments.—A major problem faced by the railroad industry is its excess capacity in the form of unused or little used trackage and facilities. The breadth of this problem is evidenced by the increasing volume and complexity of abandonment proposals coming before the Commission. In fiscal 1972, 304 applications requesting authority to abandon trackage were filed, a substantial increase from the preceding year and about three times the number filed annually in the 1960's.

As noted in our 85th Annual Report, the problem of excess capacity requires a reevaluation by railroads and others as to what rail services are needed. The guideline for abandonment cases—"public convenience and necessity"—involves complex considerations. While investigating the reliance of the public on the line, the Commission must also appraise the burden imposed by the carriers' deficit operations, and the impact of these losses on the entire rail system. Recent applications have involved proposals to abandon substantial parts of systems. Typically, these involve regionalized abandonments, such as the *Missouri-Kansas-Texas* proceeding, page 11, rather than traditional piecemeal proposals.

In Ex Parte No. 274 (Sub. No. 1), *Abandonments of Railroad Lines*, we introduced new procedures to reduce the processing time and costs to the Government, the applicants, and those supporting or opposing the abandonment of unused or little used rail trackage. A study of about 1,000 abandonment proceedings decided over a 10-year period showed that a large majority were unopposed by the general public or specific shippers. The record in such cases generally showed there was little or no traffic moving over the involved line of railroad, little or no prospects for additional tonnage, the trackage was in poor condition, and the rail line did not generate sufficient revenues to cover annual maintenance costs and expenditures for rehabilitation. Such deficit operations drain carrier resources more urgently needed in the production of essential services elsewhere in the rail system.

The new procedures would provide two simplified options in addition to the present long form application in applying for abandonment of trackage where the public's use of the service has been minimal or negligible. A new, so-called short form may be used if little or no public op-

position is anticipated. The short form still requires the carrier to provide a sufficient informational basis to permit a determination of the issues. Lack of public opposition or the negligible use of the facilities involved would give rise to a finding that the public convenience and necessity permit the abandonment. The Commission would rule on this type of application without hearings unless protests indicated a public need. Thus, the use of the short form does not abrogate the rights of any potential parties. It is expected that a large portion of the abandonment applications will be filed under this short form.

Most of the remaining applications are expected to come under a procedure involving a modified long form. In this approach, a railroad would submit a statistical indication of inadequate traffic to operate the trackage on a break-even basis. To meet this test, an average of 34 carloads of freight per mile of abandonment trackage would be needed annually.

A rebuttable presumption that the abandonment should be permitted would be established with submission by a carrier that, on the average, fewer than 34 carloads per mile have been carried annually over the trackage at issue. Unless a party opposing such action offers substantial evidence that it would be able to show that public convenience and necessity require continuing operation of the line, which may also include a rebuttal of the 34 carload presumption, the Commission would authorize the proposed abandonment without further formal proceedings. This new approach leaves the way open for those opposing an abandonment to come forward with evidence in support of retaining the service, after a railroad has established its *prima facie* case on the basis of the statistical standard of 34 carloads.

Several recent decisions are of practical significance insofar as they reflect the increasing complexity of abandonment proposals to come before the Commission and the importance of environmental factors. In a proceeding before the entire Commission the Missouri-Kansas-Texas Railroad and its wholly owned subsidiary, the Beaver, Meade & Englewood Railroad sought authority to abandon 335 miles of branch line trackage located in northwestern Oklahoma, which comprised three-fourths of the carrier's northwest subdivision in that State. The Commission found that the cost of rehabilitating the lines could not be justified in terms of present and potential traffic revenues and that adequate substitute transportation service was accessible to meet the needs of the shipping public. In order for the near bankrupt carrier to survive, it was essential that it establish priorities for the limited funds available for rehabilitation and assign first preference to its main lines where the public's service needs were greatest and where there was more potential for

developing profitable traffic. To do otherwise would jeopardize the benefits of the entire rail system.

The case is noteworthy also for the guidelines to determine whether a railroad has intentionally downgraded a line to discourage patronage or whether, on the other hand, it reasonably imposed economies for the purpose of prolonging service on the line. Criteria found relevant to the issue were: (1) whether, systemwide, the carrier is only marginally profitable or deficit ridden; (2) whether the segment under consideration is marginally profitable, operated at a deficit, or would have been operated at a deficit were it not for the deferral of maintenance and rehabilitation costs; and (3) whether the carrier's available funds for maintenance and rehabilitation are required for those portions of line within its system for which a greater public need has been demonstrated and which offer a larger profit potential for the carrier.

We noted in this decision that a number of railroads have found themselves caught in a financial squeeze and have resorted to the deferral of maintenance on less profitable lines as a way of cutting losses and of maintaining service on the lines. In the *Katy* case, we found no persuasive evidence of intentional downgrading (*Missouri-Kansas-Texas R. Co.—Abandonment, Okla.*, 338 ICC 728).

In a proceeding involving the ecology issue, the Bush Terminal Railroad Co. sought authority to abandon its entire line of railroad. It covered approximately 2 miles in the New York Harbor area and included various railroad facilities and operations among which was a car-float (barge) service. In permitting the abandonment we found (1) that the Bush Terminal area did not have the potential in the foreseeable future to generate enough rail traffic to support the railroad's operation, (2) that the proposed abandonment would not significantly increase air pollution levels, but rather might have the opposite effect through elimination of the railroad locomotives and a decrease in the area's industrial activity, and (3) that any adverse environmental effect could be avoided through technology, Federal rules limiting emissions from trucks, and improved distribution patterns in the Bush Terminal area (F.D. 25896, *Bush Terminal Railroad Co.—Entire Line Abandonment*).

Passenger Service

Amtrak.—In May of 1971, a quasi-governmental corporation, Amtrak, began operation of most of the intercity passenger trains in the United States. The railroad passenger role of the Interstate Commerce Commission took on a new dimension. No longer were we simply to judge—when called upon by a railroad seeking to escape State jurisdiction—whether

or not a particular passenger train should be discontinued. The Rail Passenger Service Act of 1970 which established Amtrak also vested this Commission with authority to prescribe standards for the safety and adequacy of intercity passenger train service. The same act requires us to report to the President and the Congress on the progress being made toward the goals of the Amtrak Act and to recommend pertinent legislation.

On October 30, 1971, in our first report to the President and the Congress, we examined Amtrak's operations and made extensive recommendations for revisions in the fare structure, service, and scheduling. The report on scheduling was based on our study and investigation of traveler complaints regarding missed connections and long layovers. We analyzed the scheduling of Amtrak and non-Amtrak service with regard to train connections and found that in some terminal cities such as Los Angeles, connections were excellent in all directions, but that in others, notably Chicago, there were poor connections. These resulted in layovers of many hours, even days. In our report we described these problem areas on a terminal-by-terminal basis and gave an analysis of how, in most instances, train scheduling could be improved to eliminate missed connections and long layovers without additions of service. Many of our recommended changes were made by Amtrak in its subsequent timetable.

In the same report, several legislative proposals were made. One would rearrange the reporting dates of the Commission and of Amtrak so as to make the reporting technique a more meaningful method of gaging Amtraks' progress, permitting us to report annually rather than biennially as is now the case. Another would require Amtrak to give a 30-day notice before discontinuing service operated outside the basic system. That would afford travelers an opportunity to change their plans with a minimum of traveler discomfort.

On December 6, 1971, we published proposed regulations for the adequacy of passenger train service. These regulations would encompass the major areas of concern of the traveling public. They proposed provisions for reservation guarantees, a 24-hour toll-free information and reservation service, baggage handling, servicing passengers during trip interruptions or cancellations, wholesome food and beverage service, adequate equipment and services to meet the needs of all passengers, strict cleanliness standards for terminal and on-train facilities, and security and maintenance for terminals.

Consonant with the requirements of due process, we solicited comment from interested parties. Representations have been filed by travelers associations, public agencies, and carriers.

The arguments and representations contain praise and criticism on

the merits as well as statements questioning the Commission's jurisdiction to promulgate the regulations in their present form insofar as they attempt to cover railroads other than Amtrak, and insofar as they differ from standards established by the Secretary of the Department of Transportation for the 21 basic system routes.

Discontinuances.—Until July 1, 1973, the Commission has jurisdiction to entertain section 13a notices or petitions only with respect to commuter and other short-haul service in metropolitan and suburban areas as defined in section 102(5) of the Amtrak Act. In fiscal 1972 our section 13a authority was called upon in two cases, of which both were dismissed for lack of jurisdiction because the trains were "intercity" in character.

As noted in our 85th Annual Report, the U.S. District Court for the Eastern District of Pennsylvania, which presides over the Penn Central reorganization, referred to us the issue of whether certain Penn Central passenger operations were "intercity" or within the "short-haul" exemption of the Amtrak Act. Using the criteria enumerated in *Penn Central Transp. Co. Discon. or Change in Service*, 338 ICC 318 (1971), we found the service between Harrisburg and Philadelphia, Pa. (103 miles), to be within the exemption. The term "commuter" was further defined to include commuter train service extending beyond a metropolitan area to another metropolitan area (*Penn Central Transp. Co.—Status of Passenger Serv.*, 338 ICC 621). In a second proceeding, we found that the service between New York City and Chatham, N.Y. (146 miles), had some qualities of commuter trains (frequent stops) but, on balance, did not fall within the "short-haul" exemption (*Penn Central Transp. Co.—Status of Passenger Serv.*, 338 ICC 660). In a third case, we found that certain trains between Philadelphia and New York City (90 miles) constituted commuter service. Involved were four metropolitan areas (of which three were contiguous and one was overlapping), and in that kind of situation, we reasoned that the purpose for which the service was used by patrons (as distinguished by the type of equipment used, distance of route, etc.) should be of primary consideration in deciding the commuter issue. Four other trains in service between Philadelphia and New York City were adjudged to be in "intercity" service. One pair ran between New York City and Chicago (over 700 miles) and the other pair, between Boston and Washington (over 400 miles). Although some persons used these trains for commuter purposes, they were a minority of the total patronage. Many long-distance intercity trains provide incidental commuter service as they depart and arrive at metropolitan area terminals, but that does not alter their essential intercity character within the meaning of the Amtrak Act (*Penn Central Transp. Co.—Status of Passenger Serv.*, 338 ICC 690).

Environmental considerations were of primary importance in a proceeding wherein the Chicago South Shore and South Bend Railroad sought to restructure its passenger service between Chicago, Ill., and Gary, Michigan City, and South Bend, Ind. The carrier sought to discontinue 22 of 50 weekday trains, 17 Saturday trains, 20 Sunday and holiday trains, and to change the hours of service of other trains. In finding that operation of certain trains was required and that service should be continued for 9 months, we noted that discontinuance would have a detrimental impact upon the environment. The reduction in service to the full extent proposed would increase highway traffic and automobile exhaust pollution levels in areas where highway traffic and foul air already had passed the point of reasonable tolerance. Our modification of the proposed restructuring was designed to aid in the preservation of train service, thereby serving to prevent a detrimental effect upon the environment, and we called upon all concerned to lend assistance to the South Shore before the environment was adversely affected by the bankruptcy of the carrier and total disruption of its passenger service (Finance Docket No. 26959, *Chicago S.S. & South Bend Railroad Restructuring of Passenger Service*).

Auto-Train.—A new kind of rail passenger service, Auto-Train, was inaugurated in December 1971 between the Washington, D.C., area and Florida with transportation of passengers and their automobiles on the same train. Unfortunately, when the operation began some equipment had not been completed and the service was oversold. Some 67 passengers were adversely affected by the shortcomings and did not receive certain services for which the carrier had held itself out. The company then sought special authority to make refunds to the passengers who were inconvenienced. In Special Docket No. 24140, *Daniel Ascher et al. v. Auto-Train Corp.*, we authorized and directed Auto-Train to pay reparation to each of \$50.

Rates

Divisions of revenue.—The Nation's railroads form an integrated system in which the carriers are required by law to interchange cars of traffic so that commerce might flow freely from one carrier to another and from one section of the country to another. Two or more railroads must agree upon a joint through rate so that, from a shipper's viewpoint he is buying a single service at a single rate.

The proceeds from the single-rate charges are distributed among the participating carriers on the basis of a voluntary divisions agreement or a divisions arrangement prescribed by the Commission.

For some time railroads in Official Territory (generally the northeast) and in the South have been unable to agree as to appropriate divisions on traffic moving between their two territories. The matter was litigated before the Commission and the courts and was eventually remanded to us for further proceedings. Involved is a request by the northern lines for a greater share of the joint revenues. On annual revenues in the order of \$500 million on the affected inter-territorial traffic, they seek an increase of about \$7 million more than their present divisions of approximately \$220 million.

We dismissed the reopened proceedings in No. 29885, *Official-Southern Divisions*, 337 ICC 74 and prior reports, because the record may have become stale, any decision would be influenced by Amtrak's recent takeover of most intercity rail-passenger service (thereby providing substantial relief from the carriers' perennial passenger deficit), and new costing techniques had been developed and should be employed.

The northern lines filed a new complaint seeking an increase in their divisions, docketed as No. 35585, *The Akron, Canton & Youngstown Railroad Co. et al. v. Aberdeen & Rockfish Railroad Co. et al.*

Investigation of Railroad Freight Rate Structure (Ex Parte 270).—The Interstate Commerce Commission is deep into the most searching investigation of the railroad freight rate structure in its 86-year history. The Commission initiated the investigation because of concern over the possible adverse effects on shippers, railroads, and consumers of the series of general rate increases approved in recent years.

The proceeding cuts to the heart of a clear need to factually assess the totality of the present rate structure. We are, with this proceeding, hopefully at the brink of achieving meaningful understanding toward definitive solutions of the problem.

The carriers' record of not providing a solution is chiefly due to the limited approach heretofore taken in attacking the problem. Our major concern is that anything less than an overall, solidly based review might result in conclusions and recommendations as inimical to the carriers, users, and the economy as the carriers' present unstructured approach and practices. Nothing less than a broad factual investigation can lead to the clarity of understanding sufficient to provide answers. The Commission must not only be responsive, but more important, must lead in seeking the solution which the carriers have not independently achieved.

Suggestions for objectives, issues, and data for the investigation, as well as procedures to be followed, were received this year. Over 140 statements were filed by U.S. Senators and Representatives; Federal and State departments, commissions and agencies; boards of trade; port interests; and organizations representing business and industry, railroads, agricul-

ture, and shippers. The parties raised issues in specific or general terms with respect to virtually every aspect of surface transportation. The mere summarization of the potential issues demonstrates the immensity of the task before us, which far exceeds in scope and complexity anything previously undertaken by this Commission. Therefore, in the preliminary report, *Investigation of Railroad Freight Rate Structure*, 340 I.C.C. 868, we examined the numerous areas selectively and limited the number of inquiries to those which seem both feasible and important. Our guiding purpose may be succinctly expressed as—are shippers paying too much or too little for the rail service they receive? If so, why and what must be done about it?

We intend to gain both an overview and detailed insight into the complex interrelationships between commodities, areas, rate structures, competitive forces, and other factors which affect, or are affected by, our national transportation system.

As a first step we are trying to gather factual data helpful in identifying shifts in the relative burdens imposed on particular traffic as a result of general rate increases. This will be pertinent to the determination of whether general increases have caused a misalignment of rate relationships and a distortion of proper rate levels. We have published, in a preliminary report, a burden study for 1966. We hope to compare that with a burden study for 1969. The traffic data necessary for the 1969 study has been received from the Department of Transportation in the form of a computer tape. Our staff has been evaluating its contents to determine if it can be used to produce a 1969 burden study reliably comparable to the 1966 study.

Of prime importance will be the development of criteria for evaluation of the rate structure, identifying data gaps and establishing methods and surveys to supply necessary data.

We requested and were granted additional funds to contract for major economic studies in connection with these proceedings. On June 30, 1972, we announced that we had awarded a contract to perform economic research studies encompassing a wide range of topics including (1) examination of the rail rate structure and identification of changes, (2) the relationship between rail rate and cost structures, (3) the economic impact of rail rate increases, (4) examination of alternative rate structures, (5) railroad investment levels and patterns, and (6) relationship between rate structure and rate of return. In addition, funds were made available to retain a special counsel and staff, and to permit the special counsel to have economic research performed for its own use. The Commission expects the individual to be selected in the very near future.

Investigation of Railroad Freight Service (Ex Parte No. 270 (Sub. No. 2)).—The Commission instituted a separate investigation in Sub. No. 2 as to railroad service inadequacies, principally operational deficiencies. In Ex Parte Nos. 265 and 267 we had considered numerous complaints of inadequacies in rail service, including delays in the movement of loaded cars, and the inability of carriers to provide empty cars when ordered. The greatest volume of complaints of service deficiencies was with respect to failure to meet schedules, terminal delays, erratic deliveries, bunching of deliveries, and placing of cars unfit for use. The railroads were required to institute prompt measures to remedy their unreliable service and eliminate terminal delays, interchange delays, erratic deliveries, and deliveries not reasonably timed or spaced. The carriers were required to file quarterly reports of the measures instituted by them to correct these service deficiencies. The reports filed by the carriers were less than satisfactory. While there are 70 class I line-haul railroads, we received piecemeal data in regard to physical plant improvements and operational changes from only a few such carriers. Noting the relative stagnation in growth of tons originating on railroads in the face of the general economic expansion, we intend to examine whether this lack of progress is in any way due to the railroads' lack of customer orientation. Therefore, we instituted this proceeding and issued a report in 341 ICC 1. We made available a "Railroad Freight Service Report" by which shippers could furnish specific details of service deficiencies to the railroads involved and to the Commission. We have been closely examining the carriers' replies to determine areas where the quality of service can be improved, means by which service deficiencies can be corrected, and whether shippers' complaints are being properly resolved.

Defining "reasonable service" in relation to rail freight transportation is difficult. We invited and received shipper statements relating to (a) practical and meaningful guidelines relating to the quality of railroad freight service, (b) standards relating to the quality of that service, (c) measures of performance against those standards, and (d) the necessary controls to improve and maintain performance standards. We also received several replies from the railroads.

The various phases of this investigation are being examined and correlated by a staff task force as part of our continuing effort to see that the nation's interstate commerce moves freely and efficiently.

Net Investment—Railroad Rate Base and Rate of Return (Ex Parte No. 271).—This proceeding was instituted in recognition of repeated challenges to the validity of the method of determining the rate base for measuring railroads' rate of return. Use of net investment in transportation property plus the original cost of the land and an allowance for

working capital to measure railroad rate of return in proceedings concerning general freight rate increases had been called into question by parties to such proceedings.

Criticisms stemmed from a suspicion on the part of many protestants that the base is overstated and, thus, indicates lower than actual rates of return. It is contended that the base is overstated because of (1) alleged excessive cost for land; (2) improper capitalization of maintenance expenses; (3) deficiency in the recorded depreciation for road property; (4) the alleged continuance in the case of reorganized railroads of the net investment in property of the predecessor company; and (5) of inclusion of excessive amounts for old or obsolete equipment and other railroad property. A preliminary report and order adopted November 5, 1971 (340 ICC 829) initiated a procedural schedule and listed the topics for consideration: land valuation; capitalization of maintenance accounts; depreciation; use of earnings for investment; debt/equity relationships; investment in nontransportation affiliates; the nature of used and useful property; and the adoption of alternatives to the fair-return-on-value test.

In addition, any consideration of the rate base must also include a determination as to what constitutes a fair rate of return on that base. This is true whether the traditional base is reaffirmed or some alternative base is established as a result of the proceeding. We included as a principal issue the rate of return itself, and the intention is for this proceeding to delineate the principles and criteria to be followed in determining a reasonable rate of return on the base for return on investment. Among the major questions will be whether and the extent to which the following should be observed in establishing a reasonable rate of return: provision in the rate of return for the recovery of income taxes and use of the cost of capital approach considering separately cost of debt capital; cost of preferred equity capital; and cost of common equity capital. Cost of debt capital will include consideration of historical and current costs. Cost of equity capital will include such factors as earnings-price ratio, the appropriate period to be considered, and the relationship of market value to book value.

Other Rate Actions of Policy Significance.—This year again the rail carriers sought to increase their freight rates and charges in the face of upward-spiraling costs. This set in motion a number of proceedings having a nationwide or regional impact which, because of the large increases at issue, were of substantial importance to the parties and to the commerce in general.

With preliminary data indicating, among other things, that costs had increased by \$1.16 billion since the last increase was permitted, we ap-

proved a temporary 2.5-percent surcharge on freight bills⁶ and opened an investigation into the adequacy of all freight rates and charges, encompassing also the lawfulness of general rate increases on a selective commodity basis. Subsequent court action relating to the environmental impact of the higher rates enjoined the collection of the increases on commodities transported for purposes of recycling, such as scrap iron, paper waste, and petroleum waste. (U.S. District Court for the District of Columbia, Civil Action No. 971-72, *S.C.R.A.P. v. United States*).

In another proceeding⁷ we disapproved a proposed 15-percent increase on traffic between Alaska and the Pacific Northwest. That action was without prejudice to an increase no greater than 2 percent, and it recognized that Alaskan trade involves special circumstances. We have instituted an investigation in No. 35654, *Investigation of Transportation in the Alaskan Trade*.

The flow of perishable commodities on a nationwide scale came under special scrutiny⁸ when the railroads sought to adjust charges on freight requiring refrigeration. Fresh or frozen fruit, vegetables and meats, and horticultural products were among the traffic involved. The carriers proposed to increase charges on shipments given mechanical protective service and to eliminate lower charges on nonfrozen perishables. We rejected the proposal, finding that it could price the western producers out of their markets in the populous northeast and could even divert traffic away from the railroads. The carriers failed to show that increased costs justified the charges.

Fresh fruits and vegetables from western producers to eastern markets were the subject of controversy this year in another context. The railroads, in a move to cut costs, proposed a limit to their liability on claims where shipments of vegetables and melons lose value because of delayed delivery. Their proposal would have set a 24-hour "grace period" of delay before any liability based on market decline would arise. The carriers' duty is to transport with reasonable dispatch⁹ as held out in the operating schedules. We, therefore, found that the proposed "grace period" would constitute an unreasonable practice violative of sections 1(6), 6(1), and 20(11) of the act and was clearly inconsistent with established law.¹⁰

Some meat traffic was subjected to increased transportation charges

⁶ *Increased Freight Rates and Charges*, 1972, 340 ICC 358.

⁷ *Increased Rates and Charges, The Alaska Railroad*, 340 ICC 129.

⁸ *Mechanical Protective Serv. Perishables—Nationwide*, 340 ICC 470.

⁹ On March 13, 1972, the Commission instituted a rulemaking proceeding, Ex Parte No. 284, *Investigation into the Need for Defining Reasonable Dispatch (Perishable Commodities)*.

¹⁰ *Provisions on Vegetables & Melons, Transcontinental*, 340 ICC 807.

in order to bring carrier revenues more nearly in line with costs. This followed our approval of certain railroad rate increases on fresh or salted meats and packinghouse products moving by trailer-on-flatcar generally to the northeast.¹¹

In an asserted effort to simplify their tariffs, railroads in the west sought to consolidate the rates and rules governing traffic in containers or in trailer-on-flatcar between the central part of the country and the Pacific coast when in foreign or Hawaiian trade. There is no question but that tariffs should be simplified, but in this instance¹² we could not endorse the effort because, for one thing, it would result in less service at higher rates and charges.

Another facet of the food price problem arose in the proposal by two railroads to cancel carload rates on livestock. Soo Line had not handled any livestock since 1969, and the Rock Island Railroad had seen its traffic in a continual decline. In this case¹³ we authorized the cancellation because of the particular situations affecting the two roads, but made it clear that the decision was not to be used as a precedent for similar action by other railroads. The two roads had originated some 250,000 tons of livestock traffic in 1950, but by 1970 about 99 percent of that traffic had disappeared. Rock Island tried to reverse the trend by a program of incentive rates, but the effort proved futile. This traffic requires special facilities and, when handled on an occasional basis only, the operation normally runs at a financial loss. Since Rock Island incurred system deficits in each of the past five years, it was in no condition to subsidize this traffic. The continuing growth of nonregulated motor carriage and the trend toward locating slaughterhouses near cattle producing areas indicate that the decline in the livestock traffic of these two railroads is not likely to be reversed.

Rate reductions of some 20 percent were proposed by several railroads on wheat flour from the southwest and midwest to the south, as the result of a competitive imbalance that had developed in the years since 1960 when the "Big John" grain car adjustments were instituted. Under those relatively low rates grain in enormous volume began moving into the south, whereupon a substantial milling industry burgeoned there. This considerably changed the structure of the grain and milling industry nationwide. As a consequence the protestants and the advocates of the 20-percent reduction proposal were competing millers. We were unable to approve the rate changes, because they would result in higher

¹¹ *Meat & PHP, TOFC, SWL, WTL, Official Territories*, 340 ICC 214. The matter is pending before the Commission.

¹² *Container Freight, From and to Pacific Coast*, 340 ICC 388.

¹³ *Cancellation of CRI & P & Soo Line Rates—Livestock*, 340 ICC 463.

rates for shippers and receivers at intermediate points along the direct routes to be used under the new tariffs, and would discriminate against barge shippers and barge lines as connecting carriers. We found ¹⁴ that the proposal would be violative of sections 2 and 3(4) of the act.

The Chicago, Rock Island & Pacific Railroad Co. sought to implement reduced multiple-car rates on corn and soybeans for export from mid-continent origins to Galveston, Houston, and Texas City, Tex. We approved the rate reduction ¹⁵ because it would permit the producing areas to share in the export market and, by promoting increased car utilization, make more cars available to more shippers.

In the northeast, lighterage at New York Harbor was being performed as part of the rail line haul, and a separate charge was not assessed for it. When Penn Central set up a separate charge, we looked into the harbor situation and found ¹⁶ that conditions had evolved to the point that lighterage had become essentially an accessorial service, the cost of which should be borne by the users. However, the charges proposed were excessive, and we approved a level approximately 50 percent lower. The new charges will not have a significantly adverse effect on the environment, since most of the traffic is not suitable to diversion and the situation will not change much. Nor will the resulting higher total charges be inconsistent with the purpose of the Economic Stabilization Act of 1970.

The Central Railroad Co. of New Jersey and the Baltimore and Ohio Railroad Co. moved to curtail their service on waterborne traffic in the New York Harbor area. Traffic handled in car float service was generally not affected by the proposal. In authorizing the move, we found ¹⁷ that both carriers (one of them bankrupt) were performing the service at a substantial loss and that reasonable alternative service was available. Baltimore and Ohio, however, was required to retain its lighterage equipment for one year so that during that period shippers might petition for reconsideration in the event the alternative service should prove inadequate to meet their needs.

In a highly unusual action, the Central Railroad of New Jersey, pursuant to an order of its reorganization court, suspended service over all its lines in Pennsylvania. To avoid a serious hiatus in service, we authorized the Lehigh Valley Railroad to take over the abandoned operation. CNJ filed an application for emergency authority to operate over certain routes whereby it could interchange New Jersey traffic at points it no longer reached in Pennsylvania. Tariff supplements were published to

¹⁴ *Grain, To, From, and Within Southern Territory*, 340 ICC 846.

¹⁵ *Corn & Soybeans Midwest to Gulf Ports, for Export*, 339 ICC 595.

¹⁶ I & S 8645 *Charges at New York Harbor, Penn Central Transportation Co.*

¹⁷ I & S 8593 *Lighterage at New York Harbor, B&O RR AND CNJ RR.*

effect these routes on a permanent basis. In all but one instance we found ¹⁸ the tariff supplements not shown to be just and reasonable because of potential predatory effects upon competitive routes and carriers. The findings were without prejudice to the filing of new schedules under conditions designed to assure all participants of continued survival. In the other instance, the tariff supplement was found not shown to be just and reasonable because it would have a destructive effect upon competition and would thereby cause serious disruption of rail service, jeopardizing the ability of connecting lines to meet their common carrier obligations.

Certain intrastate rates and charges imposed by North Carolina and Mississippi were found to be unduly low, casting a burden upon and causing undue, unreasonable, and unjust discrimination against interstate commerce. We determined ¹⁹ a basis necessary to enable the carriers operating within these States to provide adequate and efficient service. With respect to the Mississippi rates, however, we refused to enter an order implementing the findings until the carriers could show that the new rates would meet the criteria for rate increases under regulations of the Price Commission. The North Carolina rates were made effective prior to the commencement of the Wage and Price Stabilization Program.

Freight Car Service

The Commission has been and continues to be seriously concerned with the problems of adequate railroad service and car shortages. It can and does seek to encourage the carriers to equip themselves with the types of freight cars which are in demand by those shippers which they serve. The Commission has no authority to require a railroad to equip itself with specified types of cars. Although the car supply was generally adequate to meet shipper requirements throughout the year, the freight car situation caused renewed concern about the continuing decline in serviceable car ownership. The number of new units installed was less than the number retired, and the result was a further shrinkage in car supply. Despite increases in certain classes of cars, such as equipped boxcars, covered hoppers and flat cars, the ownership trend continued its established downward course.

The Commission has approached the car supply problem in two ways: encouraging the production of more transport facilities, and promoting more efficient use of available equipment.

Contrasting with the situation reported in the previous annual report,

¹⁸ I & S 8667, *Routing via Oak Island Jct. New Jersey*.

¹⁹ *Mississippi Intrastate Rail Frt. Rates & Charges*, 341 ICC 69.

in which car shortages rose to over 15,000 per day, there was no general inadequacy of supply of freight cars this year. There were spot shortages during heavy loading periods but these usually were corrected in a relatively short time, often with the assistance of the Commission's railroad service agents. Their continuing assignment was and is to maintain surveillance over the car-handling practices of carriers, shippers, and receivers in order to obtain maximum utilization and equitable distribution of the Nation's car fleet.

There was a tightening of the boxcar supply in the closing months of the fiscal year, caused by the Government's relocation of old stocks of grain to storage outside of the producing areas during harvesting of a record winter wheat crop. The movements of the annual grain harvest and fall crops, however, generally were handled with few complaints of car shortages.

The lessening of the freight car shortage in fiscal 1972 resulted from both negative and positive reasons. On the negative side, peak traffic demands were below those of recent years—one result of the general economy's sluggishness and strikes of railroad, coal, and dock workers. On the positive side, the Commission introduced a number of beneficial actions, and the freight car supply should witness various improvements as the result of several formal proceedings which were concluded.

The Supreme Court on June 7, 1972, upheld two car service rules of the Commission that require unloaded freight cars to be returned in the direction of the owning railroad. This action reversed a district court in Pittsburgh which had issued a permanent injunction against enforcement of Car Service Rules 1 and 2 in appendix G of the Commission's order in Ex Parte No. 241, *Investigation of Adequacy of Railroad Freight Car Ownership*, 335 ICC 264, 355 ICC 874. The two rules have the effect of forcing railroads with inadequate ownership to buy more cars.

In this same proceeding we had prescribed²⁰ a formula to measure each railroad's responsibility for ownership of general purpose cars. This year with the benefit of some empirical observation we found it appropriate to amend the formula.²¹ The modification deleted a credit which was previously included as an incentive for observance of the car service rules prescribed in the prior report. This change was made because the credit resulted in inequitable results, sometimes with a counter-productive effect. A special ad hoc committee of the Association of American Railroads has been attempting to determine whether an acceptable substitute can be developed. We have required semiannual reports on the

²⁰ *Investigation of Adequacy of Freight Car Ownership*, 335 ICC 264, 335 ICC 874.

²¹ *Investigation of Adequacy of Freight Car Ownership*, 341 ICC 64.

progress being made and we have indicated our intention that the matter be resolved within 18 months.

Pursuant to a change in section 1 (14) (a) of the act, we prescribed in *Incentive Per Diem Charges—1968*, 337 ICC 217, incentive per diem charges for the use of unequipped, general service boxcars with the objective of increasing the available number of those cars. To assure that revenue derived from the incentive per diem will not be deposited in the general funds of the railroads and be spent for other purposes, we required that the net incentive balances be earmarked solely for boxcar acquisition or rebuilding. Canadian railroads were included in the prescribed charges, but they were not subjected to the other rules in the same manner as domestic carriers. Rather, incentive charge collections were to be paid to a domestic class I carrier designated by the owning Canadian lines to collect and expend such funds in accordance with the prescribed rules. On reconsideration (339 ICC 627), we found that our plan to keep incentive funds in the United States through investment by a designated domestic carrier was basically sound. However, the rules were modified to permit designation of either a domestic class I carrier or a separate corporation established solely for the purpose of purchasing, holding title to, and controlling boxcars in this country on behalf of Canadian principals. Finally, we directed that all cars purchased through incentive per diem funds must be built within the United States. These cars will be available for domestic and international traffic, but, due to tariff charges, they cannot practically be used in Canadian domestic service.

The Commission adopted a new form—Report of Incentive Per Diem Class I Railroads (No. 35344 (Sub.-No. 2))—to enable it to evaluate the effectiveness of the incentive per diem program in lessening the shortage of general service, unequipped boxcars. All railroads participated in the incentive program except the Seaboard Coast Line Railroad and the Florida East Coast Railway, which were temporarily exempt pending review of the case by the Supreme Court.

Shortly after the beginning of the fiscal year, the Commission reinstated an earlier order prescribing a \$5 per-car-per-day penalty charge for the excessive holding of rail freight cars assigned for the exclusive use of a specified shipper. The penalty charge was one of the provisions of Second Revised Service Order No. 1063, *Railroad Operating Regulations for Freight Car Movement*. The order became effective August 23, 1971, after the Commission determined the penalty charge was not affected by the terms of President Nixon's Executive Order of August 15, 1971, stabilizing prices, rents, raises, and salaries. The service order extended through November 19, 1971.

One car utilization problem which has inhibited rail carriers from

meeting their car service responsibilities and has thus placed a burden on the Nation's commerce has been the return by consignees of cars in a not completely unloaded condition. For many years it was necessary to remove these cars temporarily from service for cleaning and, to that extent the fleet of available cars was reduced. We reviewed the situation and determined that,²² except for paper and wooden grain-doors, certain rules in the Uniform Freight Classification require consignees fully to unload carloads of freight, including the removal of all dunnage, debris, and other foreign matter connected with the inbound shipments. We expect this decision to improve the utilization of the existing fleet and to enable railroads to avoid undue expenses for the maintenance of cleaning facilities. Following our decision, the carriers voluntarily canceled a proposed charge for cleaning cars.

Another practice inhibiting the effective use of the existing supply of cars has been the inordinate holding of cars at origin or destination. Demurrage charges are partially intended to deter this practice through a penalty element. In view of a progressive and substantial increase in car detention between 1969 and 1970, we found²³ the existing level of charges was not an effective deterrent. We authorized an increase designed to stimulate the quick release of cars. In so doing we noted that shippers who release cars promptly would not be adversely affected by any of the increased charges and that the more prompt return of cars to service would benefit the entire shipping public. Standard demurrage charges induce prompt release of equipment. In contrast the purpose of a special demurrage charge applying to cars detained because of strikes is merely to compensate for fixed car-ownership costs and administrative expenses, and no penalty element is included. We have refused²⁴ to permit an increase in the charge for cars held because of strikes, since the cost element has been adequately covered by the existing charge.

On October 13, 1971, the Commission, on reconsideration, approved increased demurrage charges, but ordered the railroads to cancel new rules governing detention of freight cars on weekends and holidays. The new rates range from \$10 to \$30 a day, compared with the previous \$5 to \$15 a day. In asking for the higher demurrage charges the railroads contended the increases would influence shippers and receivers to release cars more promptly (*Demurrage Rules and Charges, Nationwide*, 340 ICC 83).

A Commission statement on March 10, 1972, cautioned shippers and railroads on the carriers' obligation to assess and collect all applicable

²² *Consignees' Obligation to Unload*, 340 ICC 405.

²³ *Demurrage Rules and Charges, Nationwide*, 340 ICC 83.

²⁴ *Strike Demurrage Charge, Nationwide*, 340 ICC 179.

demurrage and other detention charges where rail cars are detained subject to tariff rules.

Historically, carriers in the West and South have permitted, without cost, one inspection while in transit of cars containing various grains and grain products, whereas carriers in the East have imposed a charge for the service. These inspections were made to take samples of the contents in order to determine the official grade and thereby to establish the value of the commodity at the market. We affirmed the ²⁵ conclusions previously reached ²⁶ that a proposed charge in the West and South and an increase in charges in the East were just, reasonable, and otherwise lawful. The charge was intended to shift sampling to origin points, since in-transit inspection resulted in an unwarranted loss of car availability. Elimination or reduction of this practice should materially increase car utilization. We also required the railroads to file semiannual reports of amounts collected under the approved charges. We retained jurisdiction of the proceeding so that upon further review we could determine whether funds collected should be earmarked for upgrading the car fleet.

During the fiscal year the Commission issued a number of service orders to increase car efficiency and expedite handling of freight traffic. Several rerouting orders and amendments were issued under Revised Service Order No. 994 in instances of floods, work stoppages, and other emergencies necessitating a rerouting of traffic to avoid or relieve traffic congestion. Service Order No. 1063, which prescribed operating regulations for expeditious handling of freight cars by carriers, was vacated November 19, 1971, weeks ahead of its expiration date, because the car supply was fully adequate for requirements. Surplus cars had been reported by a number of railroads due to a series of labor disputes resulting in work stoppages. Under this order thousands of cars previously assigned to the exclusive use of specific shippers were returned to general service. Several embargoes and amendments were issued under Revised Service Order No. 995 to prevent accumulation and undue car delay.

(See complete listing of service orders, and embargoes issued during the year, page 115.)

Beginning in mid-July 1971, serious work stoppages occurred in the rail industry as the result of selective strikes. The disputes continued for 18 days and caused 10 major railroads to virtually shut down all operations before a settlement was reached between the union and the strike-bound railroads. The operations of numerous interconnecting carriers also were disrupted and the effects of the strikes were felt nationwide.

²⁵ *Inspection in Transit, Grain and Grain Products*, 340 ICC 69.

²⁶ *Inspection in Transit, Grain and Grain Products*, 339 ICC 364.

Particularly hard hit were coal movements in the Appalachian States, grain movements in the Midwest, and fresh fruit and produce in the West. Feed supplies tied up by the strikes also seriously threatened the poultry industry in the Southeastern States. Our field offices were placed on a semi-emergency basis to assist carriers, shippers, and the public, and these efforts resulted in the movement of critical cargo for the public welfare. Rerouting Order No. 59 was issued authorizing rail carriers unable to transport traffic over their own lines because of the strike to reroute traffic over any available route. The field offices handled 222 strike-related requests for motor carrier emergency temporary operating authority during the work stoppages.

In *Substitution of Motor for Rail Serv. and Publ. of Rates*, 341 ICC 88, we considered the lawfulness of tariffs providing for either substituted motor-for-rail service or joint motor-rail rates on the transportation of commodities exempt from economic regulation under part II of the act. We approved such tariff filings. With respect to substituted service alone, it accords the shippers faster service, is less costly to the carrier, and releases railcars for other purposes. In the 1968-69 season one carrier estimated it saved 107,000 car-days as a result of substituted service.

General improvements in freight service are expected to develop from the Commission's investigation of deficiencies in railroad freight service (Ex Parte No. 270 (Sub. No. 2), *Investigation of Railroad Freight Service*). Shippers have been asked to file with the nearest regional office of the ICC a "Railroad Service Report" whenever railroad service deficiencies occur. Within 30 days after shippers file a complaint, the carrier must file a reply indicating the corrective action taken.

The number of cars in the rail industry has continued to decline, but carrying capacity has risen. Average freight car capacity has advanced to 68.3 tons. New cars installed have had an average capacity of 85 tons, compared with a 61-ton average for cars retired. Thus, while the equipment inventory showed a decline, carrying capacity of freight cars offset part of the loss.

Despite extensive actions to improve freight car supply and despite avoidance of serious car shortages this fiscal year, the drop in car ownership could not be ignored. Freight car ownership of the class I railroads declined by 9,555 cars, from 1,464,613 at the beginning of the year to 1,455,058 at the year end. Serviceable cars declined from 1,384,046 to 1,368,869 during the same period. This was in line with a continuing trend and was one effect of a drop in freight traffic volume and the consequences of a cutback in spending by the railroads, both for maintenance and capital improvements. There was a sharp reduction in the number

of general-purpose boxcars, the workhorse of the car fleet, down from 358,887 cars to 345,718 cars.

On class I roads 42,979 cars of all types were placed in service during the year, but this was an insufficient number to offset the 52,534 cars retired. For certain classes of cars, however, such as equipped boxcars, covered hoppers and flatcars, there were net gains in ownership. (See page 114.)

Citing inefficient car utilization as a cause of freight car shortage problems, the Commission sought legislative authority to deal with threatened shortages prior to the time they occur. It recommended that the Interstate Commerce Act be amended to authorize the Commission to impose a penalty or emergency charge upon a railroad's use of the cars of another line whenever an emergency shortage of such equipment exists or is threatened. (See page 94.)

Legislation also was introduced in Congress to authorize the Commission, in the case of failure of proper public service by a railroad, to issue directions for handling, routing, and movement of affected traffic. The Commission presently has authority to permit one railroad to utilize trackage on another when such rights are requested. It cannot, however, order such use. The new authority would permit the Commission to take steps to assure continuation of rail service to shippers located on lines of railroads that are forced into bankruptcy or who face a discontinuation of service through other causes. (See page 87.)

The Commission generally supported legislative recommendations to provide Government assistance for improving the supply of freight cars. (See page 94.)

One specific measure expected to stimulate the purchase of freight cars and locomotives was the enactment of the Revenue Act of 1971 (Public Law 92-178) which restored the 7-percent investment tax credit. The credit applies to the cost of equipment ordered after April 1, 1971, or delivered on or after August 15, 1971.

Motor Carriers—Property

There is a close correlation between truck traffic levels and general business activity. Thus, the recessive nature of the economy in 1969-70 resulted in losses for motor carriers. The industry was also plagued by teamster work stoppages. In 1971, however, the industry was aided by an absence of significant work stoppages and showed an impressive recovery that matched the increase in business activity. By the close of the 1972 fiscal year the carriers faced uncertain but hopeful conditions. Teamsters had won wage increases that became effective July 1, 1972, the second

such rise within half a year. At the same time, economic stabilization policies (the price freeze) had left the industry without the degree of rate increases sought. The Price Commission's grant of a certificate of compliance to the Interstate Commerce Commission, authorizing it to act on rate increase requests, was not issued until shortly after the end of the fiscal year. (See page 79.)

For the trucking industry, as well as for all aspects of transportation, restoration of the investment tax credit ²⁷ encouraged increased expenditures for plant and equipment. With such additional investments and stable labor conditions, the trucking industry could look forward to continued traffic growth.

Unifications

Several proceedings in the past year involved the proposed formation of unusually large motor carriers or motor carrier complexes under common control.

In one, a hearing examiner recommended approval of a proposed consolidation of two large carriers, Ringsby Truck Lines, Inc., and United Buckingham Freight Lines, Inc., with the former as the surviving carrier. This carrier would have assets in excess of \$40 million (No. MC-F-10502, *Ringsby Truck Lines, Inc.—Control—United Buckingham Freight Lines, Inc., et al.*).

In another proceeding, we authorized International Utilities Corp. (IU), a noncarrier, to acquire control of Pacific Intermountain Express Co., with total assets of nearly \$61 million. IU already controlled Ryder Truck Lines, Inc., with transportation-related assets exceeding \$54 million. Thus, the Nation's 7th and 12th largest carriers were brought under common control. Conditions were imposed to bring within our jurisdiction and surveillance IU's securities issuances and financial dealings involving its controlled carriers. (No. MC-F-10795, *International Utilities of the United States, Inc.—Control—Pacific Intermountain Express Co.*)

In general, we continue to approach these consolidation proceedings on a flexible, case-by-case basis, recognizing that the broad standards of the governing statute were intended to provide us with sufficient latitude to deal with the specific and varying problem of each transaction, no matter how different or esoteric. Thus, in one proceeding, we were confronted with a proposal to sever "initial driveaway rights" (transportation of automobiles from plantsite to initial destination) from "secondary driveaway rights" (transportation of automobiles to subsequent destinations). This year, for the first time, we permitted the sale

²⁷ Revenue Act of 1971, Public Law No. 92-178.

of initial driveaway rights without a concurrent sale of related secondary driveaway rights. We concluded that the services and operations under each set of rights have evolved to a point where their performance as separate undertakings was feasible and consistent with the public interest (*Nationwide Auto Transporters, Inc., Fort Lee, N.J., Transferee, and Dealers Transit, Inc., Chicago, Ill., Transferor*, 116 MCC 8. Sustained in *Auto Driveaway Co. v. United States and I.C.C.*, U.S. District Court, District of Illinois, Civil Action No. 72-c-1322).

In two other proceedings, we had to deal with nonwillful legal violations and their effect upon related applications. In one, the purchaser had inadvertently acquired control of the seller without our approval. Nonetheless, shipper support for the proposed purchase was deemed sufficient to justify a partial grant of the application (*City Express, Inc.—Purchase—Brunton Storage & Van Co., Inc.*, 116 MCC 30). In the other proceeding, an irregular-route service had been inadvertently operated as a regular route service (i.e., the latter is usually conducted over a specified route between the same terminals). Nonetheless, it was again concluded that shipper need justified a grant of the application (*Ryder Truck Lines, Inc.—Purchase (portion)—Guignard Freight Lines, Inc.*, 109 MCC 184, 109 MCC 682).

Carriers also continued to display an interest in pooling service. Typically, large multistate carriers would agree with a small local carrier for the latter to make all deliveries and pickups in certain areas. The Commission has held that these arrangements are beneficial to the public by enabling large carriers to provide faster service on long-haul runs, while tendering the local carriers a larger volume of traffic (No. MC-F-11009, *Pacific Mountain Express Co.—Pooling—Abler Transfer, Inc.*, and related cases; No. MC-F-11386, *O.N.C. Motor Freight System—Pooling—Los Angeles City Express, Inc.* and related cases; No MC-11490, *Consolidated Freightways Corp. of Delaware—Pooling—Silver Wheel Freight Lines, Inc.*)

Rates

This year we prescribed new rules and regulations governing the filing of motor carrier general increases in or restructuring of rates (*New Procedures in Motor Carrier Rev. Proc.*, 340 ICC 1). Our aim was to shorten the time necessary to dispose of motor carrier general rate increase proceedings, achieve greater uniformity and reliability in data submitted, and provide adequate notice to carriers and the public of the minimum evidence necessary to render a decision in furtherance of the public interest. The new rules require specific data concerning traffic, costs, revenue need, and affiliates. All data must be filed concurrently with the increase

tariffs and must also be furnished to each party who participated in the last formal proceeding concerning a general rate increase in the affected area or territory. A minimum of 45 days' notice is now obligatory.

On the other hand, in *Motor Carrier Rates—Owner—Operators*, 341 ICC 28, we found that the approval and adoption of specific cost formulae for carriers utilizing owner-operators were not shown to be necessary or desirable in cases concerning changes in particular rates. We concluded that the public interest would better be served by permitting the use of any creditable method of showing the costs of performing the service.

In an area related to service, in three proceedings we prevented various carriers from either directly or indirectly canceling through routes and joint rates. The proceedings were: *Interchange between McLean Trucking and Manning*, 340 ICC 38; *Routing via Smith's Transfer Corp.*, 340 ICC 80; and *Routing Provisions, T.I.M.E.-DC, Inc.*, 340 ICC 125.²⁸ It was found that the natural effect of the proposals would reduce the quality and quantity of service to shippers and would represent the type of restrictions previously condemned in *Restrictions on Service by Motor Common Carriers*, 111 MCC 151. These decisions reflect our concern with the amount of service being afforded the public, particularly on small shipments.

With respect to jurisdiction, in *Mammoth Plastics v. National Classification Board*, 341 ICC 15, we affirmed congressional policy as to claims for reparations from motor carriers resulting from unjust and unreasonable rates. It was found that the Commission has no jurisdiction to award damages, our only authority being to make an administrative determination of the question of unlawfulness as an aid to an appropriate court.

In *Segregation of Freight, New Eng. & Mid. Atl. States*, 340 ICC 306, we considered the lawfulness of various tariff rules providing for the free sorting and segregating of freight delivered in a sequence reverse to that when tendered. In approving a rule for truckload shipments, we gave great weight to the fact that this practice has encouraged shipper cooperation in furnishing sophisticated equipment such as pallets, dollies, and jacklifts. These labor saving devices would otherwise not be made so readily available as an aid to the carriers' personnel. Reverse sequential delivery makes feasible a single handling of each package on the receivers' dock, which avoids unnecessary and inefficient double handling of the same articles by the consignees' employees. However, in order to avoid possible discriminatory practices by carriers, we determined that it

²⁸ Sustained in *McLean Trucking Co. v. ICC*, U.S. District Court, Middle District of North Carolina, Winston-Salem Division, Civil Action No. C-209-WS-71.

would be inappropriate to frame a rule in terms of reverse sequence loading and unloading. Instead, we concluded that normal pickup and delivery services should be defined to encompass any and all loading and unloading functions, including the performance of all types of related extra services, which carrier employees can perform in accordance with directions from consignor or consignee during the specified free-time period.

Operating Rights

The Congress has directed this Commission to regulate—through licensing—entry into interstate for-hire transportation by motor and water carriers, brokers, and freight forwarders. This function is part of a program—which also includes regulation of carrier rates and financial transactions—to ensure the maintenance and development of a balanced and reliable national system of surface transportation capable of immediate and adequate response to the ever-evolving service requirements of the public. Entry control encourages carrier investment and provides a practicable and effective tool by which those carriers may be required to live up to their common carrier commitments.

Request for licenses generates more than 80 percent of our formal cases, most of which pertain to rights for trucking. During the 1972 fiscal year, 5,945 applications for motor carrier operating authority were filed, and 4,371 were granted in whole or part. In 443 instances the applicant was issued an initial license authorizing it to embark, for the first time, upon public service as a for-hire regulated carrier. These figures demonstrate that (1) interstate trucking is not closed to expanding services and operations, new entrants, or reasonable competition; and (2) our licensing function is directed only to the elimination of the unsafe or unfit operator and to the prevention of harmful and wasteful competition.

Noteworthy grants.—The Santa Fe Trail Transportation Co., a rail subsidiary, was authorized to extend its regular-route, general commodities operations to Dallas and Fort Worth, thereby permitting substantial operations between those gateways and northern and western points. The usual restrictions binding the service to that auxiliary or supplemental to its parent's rail service were not imposed. Instead, "special circumstances" were found in the failure of independent motor carriers to provide the public with full common carrier service. A restriction was imposed, however, against the transportation of rail traffic at less than motor carrier rates.²⁹

In a consolidated report we granted three applications for motor common carrier authority to operate generally between designated points in

²⁹ *Santa Fe Trail Transp. Co., Ext.*—Dallas & Fort Worth, 114 MCC 321.

the Southwest, on the one hand, and, on the other, named points in the Southeast. We noted that available transportation services between the points and to the extent authority was granted are not reasonably adequate to meet the demonstrated needs of the shipping and receiving public. The record presented substantial evidence of widespread public dissatisfaction with existing service (principally joint-line in nature) from, to, and between the areas under consideration, as well as indications of a rapidly increasing demand for added motor common carrier service of a direct, single-line nature. The unsatisfactory loss-and-damage claim experiences of the supporting shippers was an additional factor underpinning the grants.³⁰

In separate reports we granted three motor common carriers authority to transport general commodities over regular routes extending collectively throughout much of the United States. One carrier was authorized to serve over regular routes between various points in Florida and southern Georgia, on the one hand, and, on the other, Reno, Nev., and California.³¹ Another was authorized to extend its regular route, general commodities operations, which presently encompass operations between numerous points in the Southeast, Midwest, and Southwest, to certain Louisiana and Mississippi points.³² The third carrier was authorized to extend its routes into the Southeastern United States, enabling service between numerous points in the Carolinas and Georgia, on the one hand, and, on the other, points in its authorized regular route territory embracing substantially all of the industrial Midwest.³³ The first grant was based upon a showing of public need for a unique, single-line, highly expedited experimental transcontinental operation. The other two grants were predicated on inadequacy of existing service, and in the latter case we noted that many of the supporting shippers, located at rural points, expressed complaints typical of those which considered together have come to be known as the "small shipment problem."

Each of the grants, however, was limited to a term 3 years inasmuch as some skepticism regarding the proposal was justified because of its uniqueness, because applicant in certain instances had failed to provide service which it was authorized to provide in the same general area involved, or because the grant involved a large geographic area. Each applicant

³⁰ *Herrin Transp. Co. Extension—Atlanta, Ga.*, 114 MCC 571. The proceeding is pending on petition.

³¹ *Watkins Motor Lines, Inc., Ext.—General Commodities*, 113 MCC 658 and 114 MCC 562.

³² *East Tex. Motor Frt. Lines, Inc., Ext.—Miss. & La.*, 115 MCC 122.

³³ *Transamerican Freight Lines, Inc., Ext.—Columbus, Ga.*, 115 MCC 416.

was required to file performance reports and was accorded an opportunity to petition for a permanent extension of its grant.

Continuous and adequate service.—We reaffirmed our policy, expressed in *Restrictions on Service by Motor Common Carriers*, 111 MCC 151 (1970), of condemning tariff provisions which restrict carrier service to less than that which has been authorized. As a consequence, we granted a motor common carrier specialized operating authority conditioned upon the filing of new and revised tariffs that would eliminate certain minimum-weight provisions.³⁴

In an investigation and revocation proceeding this year, a motor carrier had ceased all operations authorized by its certificates and had failed to render a continuous and adequate service, but it made an effort to reinstate operations. We found that its bona fide efforts were sufficient to demonstrate its compliance with the requirements of the act that it provide safe and adequate service, equipment, and facilities for the transportation of property in interstate or foreign commerce.³⁵ To insure that respondent sustained the performance of service throughout its system of a quantum, quality, and consistency clearly indicative of its disposition and capacity to effect future compliance with the statute, an order directing compliance for a period of 3 years was entered. During this period the carrier must submit reports describing its efforts at such compliance. A cease and desist order also was entered where a motor common carrier operating over regular routes had discontinued direct service to 366 of its authorized service points in Arkansas, Missouri, Oklahoma, Tennessee, and Texas, and instead participated in joint-line service to and from such points.³⁶

We determined that no affirmative action on certain proposals advanced to improve the quality of motor service on shipments of new furniture was warranted this year. Authorization for household goods carriers also to transport new furniture within the territorial scope of their existing operating authority would result in the creation of unnecessarily duplicative facilities in areas where either specified furniture carriers or general commodities carriers are providing adequate service on new furniture traffic. The quantity and quality of service now enjoyed by furniture shippers in such areas would suffer some decline through wasteful and destructive competition. The proceeding was discontinued subject to the condition that further consideration will be given the matter should facts be presented to this Commission indicating that the reasonable

³⁴ *Midwestern Express, Inc., Extension—Paper Products*, 114 MCC 834.

³⁵ *A.C.E. Freight, Inc.—Investigation and Revocation*, 115 MCC 96.

³⁶ *T.I.M.E.-DC, Inc.—Investigation and Revocation of Certs.*, 113 MCC 897. Pending on petition.

transportation needs of shippers of new furniture are still not being met.³⁷

Conversion—contract to common carrier authority.—To obtain common carrier operating rights corresponding to its contract carrier authority, an applicant is required to submit a detailed statement of its past lawful operations for some substantial period so that its claim of use of the authority it seeks to convert can be verified. Also, it must adduce shipper testimony that demonstrates a need for applicant's services as a common carrier rather than as a contract carrier. This statutory policy was given effect in connection with an application involving conversion from contract to common carrier authority of Cleveland General Transportation Co., Inc., which previously had been found to be making its services available to virtually any shipper willing to enter into a contract. Therefore, it was operating as a common carrier without appropriate authority.³⁸ We found that those portions of Cleveland General's conversion application supported by shippers which executed contracts after March 25, 1965, the service date of the prior decision finding applicant to be operating unlawfully, should be denied. The applicant had entered into those contracts in violation of the earlier findings, and failed to show that they were executed as part of an overall plan to reduce the number of shippers it served.

Interpretations.—In the past year, we have been confronted with a variety of proceedings involving the interpretation of certificates of public convenience and necessity. Generally, the questions have related either to the territorial aspects of authority or to commodity descriptions. We found, for example, that a certificate containing a restriction against "providing single-line service to or from points in Arizona and California" was ambiguous in regard to the question of whether the defendant could interline at a point in Arizona with a carrier transporting shipments originating in California.³⁹ To clarify the ambiguity, the underlying proceeding, which imposed the restriction, was examined. The position of the complainants was sustained with the holding that the interline arrangement was unauthorized. In another proceeding, the issue was whether the phrase "through Tatum, N. Mex.," modified both parts or only the latter part of a restriction against transportation between certain specified points.⁴⁰ In finding that the phrase modified only the latter part of the restriction, we concluded that the certificate was unambiguous. It

³⁷ *Motor Service on Shipments of New Furniture*, 114 MCC 144.

³⁸ *Cleveland General Transport Co., Inc., Conversion*, 114 MCC 536.

³⁹ *T.I.M.E.-DC, Inc. v. Braswell Motor Freight*, 113 MCC 110.

⁴⁰ *Illinois-California Express, Inc.—Investigation*, 113 MCC 532.

was made clear, however, that even were ambiguity present, an examination of the underlying record would have led to the same result.

We determined that a dismissal of an application for regular-route motor common carrier authority on the basis that the proposed service (which entailed operation over a superhighway) could be performed without specific operating authority under the *Superhighway Rules—Motor Common Carriers of Property* (49 CFR 1042.3), was in error. In so concluding, we found that the evidence failed to disclose that the proposed operation would actually be performed, as required by the Superhighway Rules, between a point of departure from, and a point of return to, the applicant's underlying existing certificated service route. Even if the proposed service were to be performed over the route and in the manner stated (i.e., between a point of departure from and a point of return to applicant's certificated service route), such operation would not fall within the ambit of the Superhighway Rules. This was because the involved route would include a substantial portion (36.5 percent) of nonsuperhighway (connecting the superhighway with the underlying certificated service route) in a manner not contemplated under the Superhighway Rules. These rules envision only minimal and incidental operation over "connecting" or "access" nonsuperhighways.⁴¹ Other proceedings involving the proper construction of the Superhighway Rules are now pending.

Among those proceedings dealing with interpretations of commodity descriptions, we considered an "intended use" commodity description.⁴² We found that a carrier is obligated to determine whether the commodities it is transporting will, in fact, be used in the industry referred to in its authority. Furthermore, the nature of the business of the shipper or consignee is immaterial. It is the intended use of the commodities that is the controlling factor. In other proceedings involving interpretations of commodity descriptions, we determined that the term "food products" includes processed meats, but not fresh meats; that the description "woodchips" embraces woodshavings; and that insofar as transportation is concerned, ethylene cannot be classified as a liquefied petroleum gas.⁴³

Fitness.—We have considered a number of cases in which an applicant's fitness has been questioned because of past operations which were not in compliance with the act. These included operations beyond the scope of its authority, operations purportedly under an exemption but

⁴¹ *Commercial Motor Frt., Inc., Ext.—Crawfordsville, Ind.*, 114 MCC 500.

⁴² *Eagle Trucking Co.—Investigation of Operations*, 113 MCC 148.

⁴³ *Hilt Truck Lines, Inc., Petition for Interpretation*, 113 MCC 784, *Puget Sound Truck Lines—Investigation & Revocation*, 114 MCC 25, and *Matlack, Inc., Extension—Ethylene*, 113 MCC 201.

not in fact covered by such exemption, subterfuges designed to avoid good faith adherence to the terms of its certificates, and discrimination against small shippers. In weighing the effect of such past violations on a carrier's fitness, we have considered a variety of mitigating circumstances.

In several cases in which applicants have conducted unauthorized operations in reliance on the advice of counsel or on the basis of unofficial opinions solicited from Commission personnel, or have otherwise demonstrated good faith, we have tended to be lenient. This has been especially true where the applicants have ceased the complained-of acts, have cooperated with Commission investigations, or have applied for authority to perform the operation in question. Where an applicant has not shown that it has brought itself into compliance, we have ordered further hearings to give it an opportunity to do so.⁴⁴

In a case where the applicant had avoided a restriction against the transportation of specified commodities in bags, except in mixed loads with the same commodities in bulk, by dumping the contents of one 100-pound bag on the floor of the trailer, we found the applicants fit but limited the grant in each case to a 3-year term.⁴⁵

Exemptions.—Agricultural cooperative associations are not subject to economic regulation by this Commission pursuant to section 203(b)(5), provided that no more than 15 percent of the traffic transported under this exemption is nonmember-nonfarm-related and that such traffic is incidental and necessary to the operations of the association. The issue of whether an agricultural cooperative may also conduct operations as a motor common carrier while contemporaneously conducting bona fide operations for its members pursuant to this exemption was presented in a recent case.⁴⁶ We determined that there was no statutory prohibition against the issuance of a certificate of public convenience and necessity in such circumstances, and that in this particular instance the dual status thereby attained by the cooperative was neither contrary to the national transportation policy nor the public interest.

In regard to the agricultural exemption provided by section 203(b)(6), a U.S. District Court set aside a Commission order denying a request to declare cut-up, precooked or cooked, marinated, breaded and/or battered, frozen or refrigerated poultry to be embraced within the exemption. The court concluded that the legislative history of the

⁴⁴ *Distributors Service Co. Extension—Foods*, 113 MCC 129. Now pending on petition.

⁴⁵ *Associated Transport, Inc., Ext.—T.V.A. Power Plant*, 113 MCC 637, and *Radke Extension—Various Commodities*, 113 MCC 89.

⁴⁶ *American Farm Lines Common Carrier Application*, 114 MCC 30, and sustained in *Bray Lines, Inc., et al. v. U.S.A. & ICC*, U.S. District Court for the Western District of Oklahoma, Civil Action No. 72-284.

section established a congressional intent to treat cooked poultry as an exempt commodity. The court further determined that the various other processing steps involved did not constitute "manufacturing" so as to produce a new or different product having a distinctive name, character, or use. Accordingly, the exemption is applicable to these commodities. The Commission filed a notice of appeal with the U.S. Supreme Court.⁴⁷

Section 203(b)(7) exempts motor vehicles used exclusively in the distribution of newspapers. We determined that the transportation of rolls of newspaper inserts, in continuous rolls, printed on one side only, which were printed on the blank side by the consignees, and inserted into newspapers, was not within the exemption.⁴⁸ As the rolls required further processing by the consignees before they were ready to be delivered to the public, they had not acquired the character of newspapers.

Section 203(b)(10) exempts from economic regulation the emergency transportation of any accidentally wrecked or disabled vehicle by towing. Movements of such vehicles from points other than the actual scene of an accident do not qualify as emergency transportation and, therefore, are not within the scope of the exemption. In a recent proceeding, this conclusion was reaffirmed in regard to traffic to be transported from applicant's garage even though he also performed the prior service from the scene of the accident to his garage and the need for the subsequent movement arose from the fact that either the driver of the damaged vehicle was unable to give transportation instructions before the vehicle was moved from the site of the accident or applicant was given erroneous instructions regarding the ultimate destination of the vehicle.⁴⁹ When the towing of wrecked or disabled motor vehicles has been found to be nonexempt, we have continued to recognize the inherent difficulties encountered by applicants for operating authority in obtaining proof of a need for service and have not required actual information regarding specific points from or to which shippers have required transportation in the past or might require service in the future.

Private versus for-hire carriers.—The act recognizes the right of shippers to transport their own goods in bona fide private carriage. In many instances, however, the arrangements purportedly made to accomplish this directly raise the question as to whether the shipper involved is itself actually engaged in bona fide private carriage or whether it is, in substance, the recipient of a motor transportation service provided by others for compensation without appropriate authority.

We again considered the issue of whether operations performed by a

⁴⁷ *Exempt Status of Precooked and Cooked Poultry*, 113 MCC 225.

⁴⁸ *Southern Express, Inc.—Investigation of Operations*, 113 MCC 628.

⁴⁹ *Fairall Common Carrier Application*, 113 MCC 238.

shipper who leases both vehicles and drivers from the same lessor constitute for-hire or private carriage.⁵⁰ We noted that such an arrangement establishes a presumption that transportation is being furnished by such person as a for-hire carrier, which is rebuttable by a showing that the shipper has the "exclusive right and privilege of directing and controlling the transportation service." We concluded that petitioner had failed to rebut the presumption.

So-called "buy-sell" arrangements, under which an individual purchases goods for resale in transit, or shortly thereafter, were the subject of two recent decisions.⁵¹ Both reports reaffirmed and applied the 12 criteria which have evolved from past decisions of this Commission and the courts and which are explained in *Garland—Investigation of Operations and Practices*, 102 MCC 437 (1966). Under these criteria all facets of the arrangement are closely examined to determine whether the relatively brief ownership by the shipper of the goods is merely a subterfuge masking what is essentially a transportation service, or whether the shipper, in fact, has assumed to a sufficient degree the obligations, risks, and benefits of dealership in the commodities in question. In *Whitehurst*, we determined that respondents, purported dealers in asphalt, were actually engaged in for-hire carriage. The buy-and-sell operations generally involved substantial investments in transportation facilities, preexisting orders assuring sales at known prices, revenues equivalent to the transportation charges of for-hire carriers, and the performance of no real service other than transportation. In our report, we also reasserted our authority to enter a cease and desist order against respondent suppliers participating in the arrangement, but concluded that the facts warranted only an admonishment. The *Hansen* case involved the interstate buying and selling of lumber, and resulted in a finding that respondents were not engaged in for-hire carriage. The report emphasized that sales are sometimes not concluded for several days after the lumber reaches destination, that respondent's return depends upon the prevailing market price for the commodity and bears no relationship to transportation charges, and that respondent assumes a substantial risk in the event a ready buyer is not found.

Safety

The primary consideration in the matter of safety is the fitness of a carrier to conduct highway operations in the public interest. While the Department of Transportation has jurisdiction over motor carrier safety,

⁵⁰ *Snyder's Wholesale Liquors, Inc., Petition*, 113 MCC 528.

⁵¹ *Hansen—Investigation of Operations*, 113 MCC 362, and *Whitehurst Paving Co.—Investigation of Operations*, 113 MCC 390.

we are charged by statute to make ultimate findings as to the fitness of a carrier and to assure that it thereafter continues to comply with safety and other lawful requirements.

The Secretary of Transportation is authorized to intervene in proceedings involving applications of motor carriers for new or additional operating authority for the purpose of presenting evidence relating to the applicant's safety record and fitness.⁵² At the close of the fiscal year the Department of Transportation was involved in a case of this nature in which a division of the Commission had under investigation a major motor carrier as to safety violations.

Household Goods

The transportation of household goods probably has more direct impact upon the consumer than any other major category of surface transportation. To focus maximum attention upon this important segment of our regulatory responsibility during fiscal year 1972, an individual Commissioner was delegated primary responsibility for the coordination and general oversight of the Commission's activity in this area. As a result, a new and innovative approach to the regulation of such transportation has been formulated and to a large degree placed into effect.

Because complaints from householders continued to be received concerning underestimates, overcharges, delays, and claims for loss and damage, the Commission stepped up enforcement of its rules which became effective June 1, 1970, governing the transportation of household goods and considered proposed new rules aimed at solving current difficulties.

To cope with this problem and provide needed assistance and protection for household shippers, the Commission took the following action:

(1) Instituted a program whereby the householder is asked to furnish the Commission with a completed questionnaire specifically setting forth certain important factors involving whether or not his move was satisfactory; and issued several advisories to assist the householder in preparing for a long distance move. These advisories were issued in both written form and through the preparation and distribution of spot announcements for use by the radio and television media.

(2) Recommended to Congress that it be given authority and appropriate funds to adjudicate loss and damage claims.⁵³

(3) Adopted strong new regulations to insure complete carrier respon-

⁵² The Department of Transportation Act, 49 U.S.C. 1653(e).

⁵³ Ex Parte No. 263, *Rules, Regulations, and Practices of Regulated Carriers With Respect to the Processing of Loss and Damage Claims*, reported at 340 ICC 515.

sibility over the use and qualifications of their agents,⁵⁴ found that a household generally need not pay the freight charges in order to recover from a carrier for the total destruction of his shipment of household goods;⁵⁵ prohibited tariff provisions found to be unlawful concerning the reservation of vehicle space and discouraged the transportation of a shipment split or divided on two or more vehicles.⁵⁶

(4) Instituted broad investigation proceedings against five of the Nation's largest carriers, which could result in a suspension or revocation of their respective operating authority.⁵⁷

(5) Directed its staff to increase inquiries into the level of carrier compliance with the household goods regulations, and to take appropriate enforcement actions. Consumer complaints, coupled with the Commission's own investigative and enforcement program, have resulted in fines and forfeitures totaling \$66,650 for this fiscal year.

(6) Increased its efforts to assist householders in the informal determination of the accuracy of transportation charges and to obtain prompt refunds when overcharges were found. Rate and tariff advice was given in numerous instances concerning prospective moves.

Certain movers were permitted rate increases ranging from 6 to 8 percent during fiscal year 1972; however, another group of carriers proposed increases ranging from 8 to 10 percent. These latter increases were suspended in Investigation and Suspension Docket No. M-25952, *Household Goods Increased Rate Nationwide*, for the full 7 months statutory period permitted by law, during which time the lawfulness of those increases will be investigated.

The Commission has, in several instances, authorized new nationwide grants of household goods authority, with the hope that the authorization

⁵⁴ Ex Parte No. MC-19 Sub.-No. 9), *Practices of Motor Common Carriers of Household Goods (Agency Relationships)*, reported at 115 MCC 628.

⁵⁵ Ex Parte No. MC-19 (Sub.-No. 13), *Petition for Declaratory Order—Household Goods Freight Charges*, reported at 114 MCC 176; pending on appeal in Civil Action No. IP 72-C-163, *Household Goods Carriers' Bureau et al. v. United States of America et al.*, U.S. District Court, Southern District of Indiana, Indianapolis Division.

⁵⁶ Ex Parte No. MC-19 (Sub.-No. 15), *Practices of Motor Common Carriers of Household Goods (Reservation of Vehicle Space by Shippers)*, reported at 115 MCC 49, pending on appeal in Civil Action No. 878-72, *Movers' & Warehousemen's Association of America, Inc., et al., v. United States of America et al.*, U.S. District Court, District of Columbia.

⁵⁷ These proceedings have been docketed as No. MC-C-7775, *Aero Mayflower Transit Co., Inc., Investigation and Revocation of Certificates*; No. MC-C-7777, *Allied Van Lines, Inc., Investigation and Revocation of Certificates*; No. MC-C-7874, *United Van Lines, Inc., Investigation and Revocation of Certificates*; No. MC-C-7901, *North American Van Lines, Inc., Investigation and Revocation of Certificates*; and No. MC-C-7923, *National Van Lines, Inc., Investigation and Revocation of Certificates*.

of such additional service will aid in elevating considerably the quality of available moving services.⁵⁸

As a further aid to household goods movers, the Commission is currently considering the question of the authorization of the use of credit card systems by motor carriers of household goods.⁵⁹

Motor Carriers—Passenger

During fiscal year 1972, the financial condition of the bus industry continued to improve, even over calendar year 1971 in which class I carriers' net income after taxes rose to an all-time high of \$63.8 million, 22.5-percent greater than the preceding year. Revenue gains in fiscal year 1972 primarily resulted from fare receipts on regular intercity routes and revenues from charter service. Package express transport revenues could not match the annual average increase of almost 13 percent between 1960 and 1970, but growth continued as it did with charter and special service travel. The initiation of National Railroad Passenger Corp. (AMTRAK) service May 1, 1971, was a major factor in curbing the decline of regularly scheduled intercity bus traffic. Amtrak discontinued runs on many existing rail passenger lines, and much of this traffic was diverted to buses. Amtrak now could draw riders who would otherwise have to take buses. In the past, intercity motor passenger carriers have met competition by such means as improvising schedules to minimize transfer points and expanding and improving bus terminals and facilities, and modernizing bus fleets. Similar competitive adjustments are likely to be aimed not only at Amtrak users but also at those traveling by private auto.

Safety

In a continuing effort to assure safe and lawful transportation, particularly for school children riding interstate buses, we initiated court action involving the unlawful interstate charter operations of a bus operator which held no authority from this Commission. One of the unauthorized charter trips with which the defendant was charged ended in tragedy when its bus skidded off a wet highway near Allentown, Pa., killing seven school children and injuring 44. On defendant's *nolo contendere* plea, the court imposed a \$3,000 fine.⁶⁰ We presented a companion action to a Federal court in New York against the unlicensed passenger broker

⁵⁸ An example is *King Van Lines, Inc., Extension—48 States*, 114 MCC 866.

⁵⁹ Ex Parte No. MC-19 (Sub-No. 16), *Practices of Motor Common Carriers of Household Goods (Use of Credit Card Systems)*.

⁶⁰ *United States v. Tedesco Bus Co., Inc.*, Criminal No. CR 467-70 D.N.J., October 1, 1971.

who, for compensation, arranged for the use of the carrier's services. The court permanently enjoined the defendant from providing or holding himself out to act as a broker of such transportation, without first obtaining a broker's license from the Commission.⁶¹

We further determined the appropriate remedy to be imposed on a passenger carrier found to be in violation of the motor carrier safety regulations.⁶² A hearing examiner had recommended suspension of the defendant's entire operating authority for a period of 20 days. We found that defendant's violations of the rules pertaining to the maximum hours a driver may be permitted to remain on duty were willful, because of the continuous persistence of noncompliance with the rules in the face of prior investigations and other attempts to gain the carrier's compliance. In determining the appropriate remedy, however, we had a primary responsibility to take into account the interests of the riding public. In considering the adverse effect upon those of the riding public who daily rely upon motorbus service as the least expensive means of intercity transportation, we concluded that suspension of defendant's regular-route operations was not warranted. Instead, we suspended defendant's charter and special operations authority as a more appropriate remedy, as these aspects of defendant's operation were not so intertwined with the essential transportation requirements of the general public.

Section 203(b)(1) of the act provides that transportation performed in "motor vehicles employed solely in transporting school children and teachers to or from school" may be performed without operating authority. Due to interpretive problems regarding the phrase "motor vehicles employed solely," the Commission had concluded⁶³ that a liberal construction of the phrase was warranted by the legislative history of the section, pertinent Commission and court decisions, and a number of practical and economic considerations. Accordingly, a rule was prescribed providing that this exemption "shall not be construed as being inapplicable in the transportation of school children and teachers to or from school, even though such motor vehicles are employed at other times in transportation beyond the scope of the exemption." This decision raised the possibility of conflict with the schoolbus safety regulations of the Department of Transportation. Therefore, in a subsequent report⁶⁴ it was determined that this interpretation of the exemption did not conflict with the safety jurisdiction of the Department of Transportation, in that de-

⁶¹ *Interstate Commerce Commission v. Sol Zeller, doing business under various names*, Civil No. 71-C-1037, E.D.N.Y., June 12, 1972.

⁶² *Federal Highway Admin. v. Safeway Trails, Inc.*, 113 MCC 815.

⁶³ *Schoolbus Exemption*, 113 MCC 258.

⁶⁴ *Schoolbus Exemptions*, 114 MCC 531.

VICES required by the regulations being considered by the Department could be covered or rendered inoperable at times when the vehicle was not operated as a schoolbus.

Rates

During the past year, we considered two increases proposed by a carrier providing commuter service between New York City, and points in New York and New Jersey. In *Commutation Fares, Between New York, N.Y., & N.J. & N.Y.*, 340 ICC 727, the carrier sought to increase its multiple-trip commutation fares. We found that the evidence was not persuasive that the proposals were just and reasonable. In *Passenger Fares Between New York & New Jersey*, 341 ICC 50, we approved increases in commutation fares ranging from 5 to 20 cents. The evidence showed the carrier would have a large operating loss without the increase, and the amount would not exceed the minimum required to assure continued, adequate, and safe service. In both decisions, we noted our expectation that the carrier would take steps to eliminate or alleviate deficiencies in equipment and schedules.

Operating Rights

The Commission considered the effects on non-smoking bus passengers of smoking in motorbuses by other passengers or operating personnel.⁶⁵ Concluding that such secondary smoke constitutes a substantial nuisance and a probable health hazard, we adopted rules designed to alleviate these problems. The rules would require separate seating sections for smokers, located in the rear of interstate buses engaged in regular-route or special operations, and comprising no more than 20 percent of the total seating capacity of the bus. Charter operations (in which the choice of fellow passengers assumes a more voluntary nature) would be unaffected by the rules. To avoid difficulties arising from fluctuating demand for the use of the special smoking sections, discretion in enforcement of the rules would be allowed under the guideline of assuring the comfort of all passengers and the provision of safe, adequate, and expeditious transportation. By subsequent order of the Commission, the effective date of these rules was postponed indefinitely pending judicial review.

Passenger brokers function as middlemen or intermediaries between the traveling public and the regulated passenger carrier, and owe fiduciary obligations to both. Consequently, a fundamental precept of Commission

⁶⁵ *Smoking on Interstate Buses*, 114 MCC 256. Sustained in *The National Association of Motor Bus Owners v. U.S.A.*, United States District Court for the District of Columbia, Civil Action No. 662-72.

policy has been the preservation of the broker's ability to exercise independent judgment in its selection of the underlying transportation by discouraging control relationships with the carriers. We denied an application for a broker license not only on the grounds of applicant's failure to establish that the operation would contribute something of value to the carriers or the public, but also because of its affiliation, through common management, with regulated bus lines.⁶⁶ In distinguishing seemingly contrary decisions in prior proceedings, we observed that the opposition of other brokers and motor carriers, the existence of the possibility of preference and prejudice, and the lack of a showing of public benefits were grounds for denying the application.

The situation in which a motor carrier already affiliated with a broker seeks special operations authority was also considered.⁶⁷ Several applicants were affiliated with nationwide passenger brokers and were already providing tour service through a combination of the brokerage authority and the motor carriers' charter authorities. We determined that a lesser burden of proof is required in such situations, as substantial lawful operations already existed and the change in the form through which the service would be offered would not create any newly competitive service. To avoid the authorization of nominally competitive services under common management, however, the grants of authority were conditioned on cancellation of those portions of the licenses of the respective affiliated brokers which duplicated the authority granted. The latter conditions are being given further review.

We rejected the principle, adopted by a hearing examiner, that different standards govern broker applications when ethnic, racial, or language considerations are present.⁶⁸ The applicant had proposed a tour service featuring Spanish-speaking guides, but we concluded that a *prima facie* case had not been established. In applying the applicable statutory criteria, we emphasized the difference between a grant based on the considerations followed by the hearing examiner and authorizations which recognize the demonstrated needs of a particular class of users. Petitions for reconsideration are pending in this proceeding.

Freight Forwarders

A decline has been experienced by freight forwarders in the number of shipments, tonnage, and transportation purchased. This segment of the transportation industry has sustained little growth over the past 20 years, although the average weight per shipment has increased substantially.

⁶⁶ *Gray Line National Tours Corp. Broker Application*, 114 MCC 914.

⁶⁷ *Greyhound Lines, Inc., Ext.—Special Operations*, 115 MCC 82.

⁶⁸ *Elegante Tours, Inc.—Broker Application*, 113 MCC 163.

Freight forwarders generally assemble small shipments and combine them into carload lots for transport by various modes. They provide a vital service to thousands of small shippers. Under the present law they must pay the published rates to the railroads and cannot negotiate as they can with motor common carriers. Also, the urban peripheries, with lower land values, less congestion, and space for expansion, have been attracting industrial suburbanization throughout our metropolitan areas. As the Interstate Commerce Act is presently constituted, the freight forwarder must operate within the confines of his terminal area and often is unable to handle the pickup of small shipments from the suburban industrial complexes. Through procedural decisions (Ex Parte No. 266, *Investigation into the Status of Freight Forwarders*) and legislative recommendations (see page 94), the Commission has recognized the plight of the freight forwarders and sought means of revitalizing this mode of transportation.

In a number of consolidated proceedings, we held that evidence of past operations which could not have been conducted under color of right, is entitled to no weight and will not be allowed to further an applicant's cause. On the other hand, shipper evidence, designed to establish that the forwarding service proposed is or will be consistent with the public interest and the national transportation policy, will be considered without reference to such past operations.⁶⁹ Where we determined, without reference to such past operations, that the shipper evidence was not substantial and lacked the specificity and essential characteristics which are necessary to establish consistency with the public interest and the national transportation policy, the application was denied.⁷⁰ We also noted that the interpretation of the household goods exemption under part IV of the act cannot be used to construe the authority of part II motor carriers of household goods.⁷¹

We found in several proceedings that certain operations, variously described as consolidating and pool-car services, in fact constituted freight forwarding, as described in section 402(a)(5) of the act, for which appropriate authority was required.⁷² In each instance, the respondent or defendant asserted that the only operations performed by it were those

⁶⁹ *International Sea Van, Inc., Frt. Forwarder Applic.*, 339 ICC 408.

⁷⁰ *Home-Pack Transport, Applic. for Forwarder Permit*, 340 ICC 98.

⁷¹ *Trans-American World Transit, Inc., Frt. Fwd. Applic.*, 340 ICC 196.

⁷² *Haley Transfer & Storage—Investigation of Operations*, 340 ICC 350 (1971); *National Motor Freight Traffic Association, Inc., et al. v. Cal-West a/k/a Cal-Western et al.* (not printed), decided August 27, 1971; and *Metropolitan Shipping Agents of Illinois, Inc.—Investigation of Operations* (not printed), decided August 11, 1971, affirmed *sub nom*, *Metropolitan Shipping Agents of Illinois, Inc. v. United States*, Civil Action No. 1720, D.N.J. April 28, 1972.

conducted within a terminal area. In addition to consolidating shipments, however, these respondents or defendants effected all subsequent arrangements, and thus provided for break-bulk and distribution. Because they performed all other functions of the forwarder they were also found to assume responsibility for the movement. In each instance, a cease and desist order was entered.

We found a public need for an operation designed to eliminate the recognized problems of shippers of small shipments.⁷³ Applicant failed to demonstrate convincingly, however, that its proposed method of operation would overcome certain historic problems inherent in the handling of small shipments, or that it could operate on a nationwide basis. Considering the public interest, but also the need to safeguard the public against the evident flaws in applicant's proposed operation, we granted authority, limited in point of time to a 3-year term, to serve to and from only a representative, yet viable, 7-State core area of the United States. We required applicant to file annual performance reports.

Freight forwarders are as dependent as any other shipper upon the level of rates established by motor carriers and, in their posture as shippers, are qualified to support the applications and obtain the services of motor common carriers. Where the existing rates of protestants effectively preclude the supporting freight forwarder from using protestants' services, and constituted an embargo as to the forwarder's traffic, thereby depriving it of one of the three modes of regulated carriage which it may utilize, we granted the motor common carrier applicant authority to transport general commodities, with exceptions, "which are at the time moving on bills of lading of freight forwarders under part IV of the Interstate Commerce Act."⁷⁴

One plaintiff, a nonvessel operating common carrier by water (NVO) subject to the jurisdiction of the Federal Maritime Commission, contracted with a water carrier to use the latter's all-water service, including pickup and delivery, between plaintiff's California terminal and the water carrier's docks in Hawaii, pursuant to a tariff filed with the Federal Maritime Commission. The Federal Court noted that neither plaintiff nor the water carrier had entered into any joint rate or through route arrangement with the participating motor carrier. It held that the type of rate which the carriers used to move a shipment was determinative. Absent any such through route and joint rate arrangements, plaintiff was found not to "utilize" a part II motor carrier within the meaning of sec-

⁷³ *American Delivery Systems, Inc., Frt. Forwarder Applic.*, 340 ICC 776 (pending on petition).

⁷⁴ *Armellini Express Lines, Inc., Ext.—F. F. Traffic*, 113 MCC 603.

tion 402(a)(5), and was therefore not a freight forwarder.⁷⁵ We appealed this decision to the Supreme Court.

Water Carriers

With the exception of the intercoastal carriers, the financial condition of water carriers is generally sound, and the outlook for inland waterway traffic is promising. Even with a decrease of 4.9 percent in revenue ton miles, class A and B carriers increased their revenues by 1.9 percent in calendar 1971. The recent completion of the Arkansas River navigation project and the expected completion in January 1973 of the Kaskaskia River project should generate additional traffic. Further improvement of existing navigation projects, e.g., the Ohio and Illinois Rivers, will promote operating efficiencies.

Water carriers, like other modes, are confronted with increased costs of equipment and higher interest rates. There is, however, no serious shortage of equipment, except during the grain harvesting season. There continues to be congestion at key locks, such as at Lock and Dam No. 26 on the Mississippi River (Alton, Ill.), resulting in delays. Moreover, environmental considerations are affecting the completion and initiation of navigation projects, notably the Cross Florida Barge Canal and the Tennessee-Tombigbee Waterway. Additionally, proposed changes in evaluating procedures in conjunction with increased construction costs appear likely to curtail the construction of more navigation projects.

The "transshipment" clause of section 302(i)(3)(B) of the act was the subject of two determinations of policy significance during the past year.

A recent innovation in waterborne transportation, known variously as "LASH" (Lighter-aboard-ship), "Seabee," and "Stradler," involves a form of barge transportation in which barges are floated by conventional means on domestic waterways but are lifted aboard a large "mother" vessel for transportation over the high seas, all for the purpose of providing a continuous waterborne service between foreign ports and inland and coastal United States ports. LASH avoids the necessity of transferring cargoes at United States seaports. The special construction and aboard-ship handling facilities of the large "mother" vessels enable them to pick up and discharge loaded barges in deep water on the periphery of congested ocean ports, thereby substantially reducing costly "turnaround" time and use of terminal facilities. Included here is the ability of the

⁷⁵ *IML SeaTransit, Ltd. v. United States*, Civil No. C-70 2667 AJZ, N.D. Calif., April 21, 1972.

"mother" vessel to make only one stop for the discharge of cargo destined for other coastal as well as inland ports.

The success of LASH operations has created regulatory problems for this Commission because of the vagueness of the pertinent provisions of the Interstate Commerce Act and jurisdictional conflicts with the Federal Maritime Commission. Confusion existed as to our regulatory authority over the domestic portion of the LASH operation, since the ocean segment of the movement falls within the jurisdiction of the Federal Maritime Commission which regulates the ocean carriers.⁷⁶ Domestic towing and freighting companies generally hold certificates or permits under part III of the Interstate Commerce Act, unless they are involved exclusively in transportation which is exempt from regulation or operates exclusively within single or contiguous harbor areas. But because of certain language in section 302(i)(3)(B) of the act, there was some doubt as to the jurisdictional boundary between the two Commissions where, as here, it is difficult to discern whether a "transshipment" has taken place between the ocean carrier and the domestic carrier.

The general scheme of the statute is to permit regulation of the domestic portion of water movements to or from foreign points—but only if "transshipment" has taken place at an intermediate point in the United States. The main question centers on the proper definition of "transshipment". If it refers to the transfer of ownership or control of cargoes between different carriers, this Commission has regulatory jurisdiction only subsequent or prior to such transfer from or to the overseas carrier. If it means the physical transfer of cargoes between vessels of the same line, the Commission's jurisdiction would be more extensive.

On May 12, 1972, we issued a joint jurisdictional statement with the Federal Maritime Commission concerning LASH operations, adopting the "transfer of control" definition of "transshipment." That statement provided that:

In the transportation of freight between United States ports as a part of transportation in foreign commerce in a through movement to or from foreign ports, the Interstate Commerce Commission's jurisdiction is limited to that portion of transportation between United States ports which precedes or follows transshipment at an intermediate United States port. For purposes of this statement of policy, the transfer of cargoes from one barge to another barge of the same mother vessel or another mother vessel of the same carrier or commonly controlled by it shall not be deemed to constitute transshipment. However, the towage of barges between the United

⁷⁶ The Shipping Act of 1916, 46 U.S.C. s 801 *et. seq.*

States ports, when undertaken by other than the ocean carrier, is subject to the jurisdiction of the Interstate Commerce Commission.

In a somewhat related matter, the Sacramento-Yolo Port District, a public corporation, of Sacramento, Calif., sought a declaratory order that would find that certain water carrier operations do not constitute "interstate or foreign commerce", as defined in sections 302(i)(3)(B) of the act, and are, therefore, not subject to economic regulation by the Commission.⁷⁷

Petitioner is a public corporation formed under the laws of the State of California to operate the Sacramento River Deepwater Ship Channel Project, an inland port approximately 79 miles from the Pacific Ocean. In order to hold down costs in recent years, ocean common carriers by water have limited the number of calls to those made to a few larger ports on each coast, and have eliminated calls at smaller inland ports. To protect its interests and to adapt itself to the new realities of ocean transportation, the Port of Sacramento inaugurated on January 1, 1970, a method, designated as Container Barge Service, of attracting general cargo. The service involves the movement of merchandise in containers between the Port of Sacramento and ports in the San Francisco Bay area on a barge leased by the Port, and moved in the services of a towing company holding operating authority from the Interstate Commerce Commission.

The Container Barge Service is used only to transport container cargo moving wholly by water between a port in a foreign country or a non-contiguous State or territory, on the one hand, and, on the other, the Port of Sacramento, under a port-to-port ocean bill of lading naming Sacramento as the port of origin or destination. The service is offered only to ocean common carriers by water and includes, in addition to the water transportation between the Sacramento and San Francisco Bay ports, the loading and unloading of the containers at the port of Sacramento to and from the barge as well as the land carrier. The Port of Sacramento acts as the ocean carriers' agent in transporting the merchandise as part of a single continuous port-to-port water movement. Its Container Barge Service is offered only in lieu of a direct physical call of the ocean vessel at the Port of Sacramento. Tariffs are published and filed with the Federal Maritime Commission, and charges are paid by the steamship companies. The entire service is on a single per-container rate basis as provided in the published rate schedules.

It was conceded that the above-described services of the Port of Sacramento would be that of a "common carrier by water" as defined in section

⁷⁷ No. W-C-21 *Sacramento-Yolo Port District, Petition*, 341 ICC 105.

302(d) of the act, and would require a certificate of public convenience and necessity from this Commission if performed in interstate or foreign commerce within the meaning of the statute. The problem arose, however, as to whether a "transshipment" had taken place between the ocean carrier and petitioner so as to subject the latter to regulation by the Commission.

We found that the described water carrier operations constitute transportation in interstate commerce pursuant to section 302(i)(3)(B) of the act, and are subject to economic regulation by this Commission. The transfer of lading among vessels is generally sufficient to bring the inland water movement within our jurisdiction. Although it has been determined that, in LASH operations, the transfer of lading between vessels under common control or ownership does not constitute a "transshipment" under section 302(i)(3)(B), the substituted service involved here does not fall within this limited definition. We indicated that an indispensable element of substituted service is that both the primary carrier and the carrier furnishing the substituted service must lawfully be entitled to operate between the points where such substituted service is offered. It would be anomalous to hold that certain common carrier service is subject to our regulation, but that the same service performed as a substitute for that of an ocean common carrier is beyond the scope of our jurisdiction.

We also recognized that operations of the specific type performed by petitioner through its Container Barge Service have no more than a *de minimis* effect on interstate or foreign commerce as regulated by us. We proposed statutory amendments which would remove such operations from our jurisdiction and place them entirely in the hands of the FMC. (See page 88.)

Intermodal Acquisitions

As noted in our 85th Annual Report, we have jurisdiction under section 5 (14-16) of the Interstate Commerce Act to authorize railroads to acquire control of water carriers (except where the water carrier operates through the Panama Canal) provided there is, or may be, no competition between them. An examiner has recommended approval of a proposal by the Southern Railway Company to acquire Southern Regional Coal Transport, Inc. This water carrier will if the railroad proposal is approved transport coal in bulk from docks near Shawneetown, Ill., and Sturgis, Ky., on the Ohio River, to a point near Sheffield, Ala., on the Tennessee River. The coal would then move by unit train to its destination. In such a situation, the barge line would merely act

as an extension of applicant's rail lines and thus, not be competitive within the prohibition of the statute. The examiner noted, however, that the proposal would appear to eliminate competition among barge lines for the coal movements. Numerous exceptions to the recommendations of the hearing examiner have been received, particularly from barge lines and water carrier associations. The case is presently before the Commission for consideration (F.D. No. 26310, *Southern Railway—Control—Southern Regional Coal Transport, Inc.*).

Cenac Case

In August 1971 Katy Industries, Inc., sought Commission authority to control Cenac Towing Co., Inc. (F.D. No. 26737, *Katy Industries, Inc.—Control—Cenac Towing Co., Inc.*). Katy Industries controls the Missouri-Kansas-Texas Railroad Company (MKT) through ownership of its common stock. Cenac is a contract carrier by water. The Commission, however, has previously found Cenac's operations to be exempt from the provisions of Part III of the Interstate Commerce Act. A public hearing has been scheduled.

Express Companies

The relative importance of REA Express, Inc. (REA), as a major common carrier of intercity small shipments has declined continually since World War II. For example, in 1946 REA handled 235 million surface shipments, but by 1971 its traffic had declined 94 percent. As a result of this precipitous descent, REA's surface shipments account for less than 1 percent of the tonnage of estimated total regulated intercity small shipment traffic. Service contractions and continued rate increases appear to be the major contributors to this steady decline in business.

Air express traffic has become an increasingly significant part of REA's service, accounting for about one-third of its total business. Even so, its air express tonnage is less than in 1965.

Notwithstanding some improvement in the general economy in fiscal 1972, indications are that REA's general decline has not been arrested. Barring a dramatic upturn in business, REA's outlook for the immediate future is rather bleak.

Although REA's loss in traffic is apparently being absorbed by major regulated competitors (motor carriers, bus express, United Parcel Service, small package carriers, and to some extent, by private shipper associations) total elimination of REA's service probably would cause inconvenience to shippers in the distribution of such items as perishables, live animals and birds, and other special items.

This Commission is extremely concerned with the future prospects of REA Express, Inc., the Nation's largest express carrier. In No. MC-66562, *REA Express, Inc., Application for Emergency Temporary Authority*, 117 M.C.C. 80, however, we were unable to approve REA's six-volume application for 30 days' emergency irregular-route temporary authority, because REA failed to set forth (1) any reasonable manner in which it could or would perform virtually nationwide irregular-route service, (2) the manner in which "express" service could be performed on a nonscheduled basis or over anything but regular routes, and (3) the nature of the purported "new financing" which it expected to become available as a result of such a grant of temporary authority.

In No. 35364, *REA Express, Inc.—Petition for Declaratory Order*, REA requested the Commission to find that REA is not subject to the cargo liability insurance provisions of section 215 of the Interstate Commerce Act (49 U.S.C. 315) or the requirements of 49 CFR 1043. We found: (1) REA holds certificates of public convenience and necessity as a common carrier by motor vehicle issued under part II of the act and conducts for-hire motor carrier operations pursuant thereto; (2) inasmuch as REA is conducting operations pursuant to part II of the act, it is subject to its provisions and the rules of the Commission relating to cargo liability insurance provisions; and (3) no reason appears for concluding that the public interest would best be served by relieving REA of its requirements with respect to maintenance of insurance for the protection of the public.

Oil Pipelines

Pipeline companies regulated by the Commission have always enjoyed a strong financial position, and this year witnessed continued growth for the industry. In the third quarter of fiscal 1972, 86 pipeline companies with annual operating revenues of more than \$500,000 reported transportation revenues of \$316.3 million, up 3.2 percent from the comparable period in fiscal 1971. These carriers originated on line and received from connections 2.1 billion barrels of oil during January–March 1972, an increase of 1.9 percent from the corresponding 1971 period.

A new trend in pipeline construction appears to be developing. In 1971, the crude-oil trunk lines had their first significant drop in mileage in the last 10 years, while the trunk line mileage of the refined products continued their upward climb. In 1961, crude-oil trunk line mileage amounted to 59,412 as against 39,630 miles of products line, a ratio of 1.5 to 1. Because of the accelerated growth of the products line in the last

10 years in contrast to the stabilization of the crude-oil trunk lines, the mileage ratio has become almost 1 to 1.

The Trans-Alaska Pipeline System to be built by Alyeska Pipeline Service Co., received a favorable report from the Department of Interior in 1972. It is anticipated that if all goes as expected, its 789 miles of line should be in operation by 1975. This system will have an initial rate of 600 thousand barrels per day (MB/D) in 1975, with an ultimate capacity of 2,000 MB/D.

The outlook for oil pipelines is bright. The National Petroleum Council estimates that the total domestic oil demand will increase from 14.7 million barrels per day (MMB/D) in 1970 to 18.3 MMB/D in 1975, an advance of 24.5 percent. This greater demand for oil will increase the carriers' revenues and help improve their earnings. In order to meet this increased demand more miles of pipeline will have to be constructed.

Based on the total demand and domestic production predictions of the National Petroleum Council, total oil imports will need to increase by 3.9 MMB/D between 1970 and 1975. With this heavier reliance on import oil in the future, the pattern of crude-oil traffic will change. More oil will be transported from the gulf coast to the Mid-Continent refineries and from Canada to the Great Lakes refineries.

Intermodal

On September 16, 1971, our staff conducted an informal conference with persons having indicated an interest in a proposal of the Water Transport Association for the establishment of lake-rail routes and rates for transporting feed grain from Midwest origins to New England.

Appearances were made by or on behalf of members of the New York and New England Congressional delegations, New England Governors' Conference and other State officials, Water Transport Association, poultry growers, dairymen, feed dealers, milling companies, farmer associations, port commissions, boards of trade, shipbuilders, eastern railroads and others. All of those making statements supported the proposal.

The Chairman of the Traffic Executive Association—Eastern Railroads appeared on behalf of the eastern railroads. He made no statement of position at the conference but agreed to furnish the Commission and the parties with a subsequent view. By letter he later stated that the proposal was not desirable or acceptable.

Although numerous persons replied to that letter and asked that the informal conference be reconvened, such action would obviously have been futile in view of another letter from the Chairman of the Traffic Executive Association reiterating the unacceptability of the proposal to

the railroads. Moreover, we expressed our concern that reconvening the conference in an attempt to convince the railroads to agree voluntarily to participate in the proposal could cast doubt on our impartiality.

At the same time, we indicated we did not believe the matter should be precipitously terminated. On the other hand, we noted that the commitment of the staff resources necessary to investigate the matter on our own motion would adversely affect our other duties to the detriment of the general public interest. In this posture, we stated that we would tend to view favorably a petition to institute an investigation into this matter if petitioners affirmatively indicated that they would be prepared to make the necessary record and to bear the burden of proof.

Tariffs

As reported last year, the Commission in its decision in ex parte 265-267, *Increased Freight Rates, 1970 and 1971*, 339-ICC 125, condemned the complexities of rail rate tariffs which had developed through the expedient of so-called "Master Increase Tariffs." This tariff publishing technique requires the tariff user to resort to a series of multistep procedures in order to update a basic rate to the applicable rate level.

The Commission ordered that all tariffs be brought up to date at the earliest possible time and provided for progress reports, regular review and deadlines for compliance. The progress results were a significant ingredient in the Commission's evaluation of the carriers' request for a general rate increase in ex parte No. 281 (see page 19). By the end of fiscal year 1972, the carriers had achieved substantial compliance with the basic requirement. Most notable were the carriers in the east who reported having treated and fully updated 3,286 tariffs or 94 percent of those outstanding. All the carriers have indicated an update of tariffs to the extent that increases preceding the ex parte No. 256-level have been incorporated into the tariffs.

From the projections of progress and monthly priority reports now required, the update program should be substantially complete by the end of calendar year 1972.

Tariff Users Advisory Committee.—This Committee was organized early in fiscal year 1972 to assist the Commission in its continuing concern with the practical readability and usefulness of tariffs. The Committee, consisting of members drawn from a cross section of the shipper and carrier industries, met five times during the year.

The agenda has included review of the timely furnishing of tariff matter, computerized tariffs, tariff update and many other technical subjects relating to tariff publication techniques and readability.

As the fiscal year closed, the Committee's work was broadened to encompass the general area of tariff simplification. It was actively considering practical means for eliminating the complexities which have become a part of today's body of tariff matter.

Computerization.—The Commission's Chairman appointed an Ad Hoc Computerization Committee consisting of staff members drawn from throughout the Commission, to monitor the application of computer techniques to tariff activities. Generally, the Commission's desire is to promote efficient computer applications to tariffs and at the same time to recognize the continuing need for easy use and interpretation of the computerized matter. During the year the committee offered considerable direction to tariff publishers, particularly those considering the use of computers, in the interest of promoting high standards and sound publication results.

Simultaneous Notification to Shippers.—Increasing concern with the general inconsistency experienced by shippers in the timely receipt of rate changes and tariff matter caused the Commission to order that tariffs be uniformly made available to all parties of interest. We required that the tariff publisher dispatch tariffs to all subscribers at the same time they are mailed to the Commission; that tariffs be dispatched in an expedited manner if requested; and that all tariff matter be made available to any party upon reasonable request.

Petitions for reconsideration of the provisions were received from a number of tariff publishers and the order was stayed pending disposition of the petitions.

Suspensions.—In many respects the key pressure point in the regulation of rates is centered at the suspension level. Under this procedure, proposed changes in rates are filed by the carriers in the form of tariffs which are made available for public examination 30 days before becoming effective. This permits any interested shipper, carrier, organization or person to protest new or changed rates and to request suspension and/or investigation of the proposals. Protests, as well as justifications for the changes, may be considered by the entire Commission or a three-member Division of Commissioners. More commonly, the issue of whether to prevent the institution of carriers' rate proposals is handled by an employee-manned Suspension and Fourth Section Board, whose decisions may be appealed to the Commission level.

A total of 4,071 rate adjustments involving changes in tariffs of rail, motor, water, freight forwarder, pipeline, and express carriers was considered by the Board. Of these, 976 reflected increases, 2,927 reductions, 122 both increases and reductions, and 46 neither increases nor reduc-

tions. There were 7,304 tariff publications of one or more pages involved in these adjustments. Protests totaled 3,967 of which 81 were from State or Federal Government agencies and 1,700 from shippers and receivers. The remaining 2,186 were from competing carriers. Statements from shippers and others intervening in support of the proposals totaled 362. Petitions to vacate, investigate, or discontinue totalled 188. In 215 instances, appeals were filed for reconsideration of the Suspension Board's conclusion not to suspend. A total of 405 investigation and suspension proceedings involving one or more adjustments were discontinued upon cancellation of the schedules under special permission authority and advice that the carriers would not attempt to justify the suspended matter.

Informal rate cases.—Assistance was given to the shipping and traveling public, and to carriers in hundreds of instances by the expression of advisory opinions in the interpretation of tariffs, as well as in the adjustments of rates and other difficulties. Numerous recoveries of overcharges were obtained for shippers under our informal procedure.

Specific informal rate cases received by the Bureau of Traffic totaled 4,007 during fiscal year 1972. These included both informal complaints docketed under Rule 25 of the General Rules of Practice and other more general rate inquiries.

The number of applications and registrations received on the special docket amounted to 305, an increase of 87 over the previous year. These applications requested authority to refund freight charges already collected or to waive collection thereof for the future, on grounds of unreasonableness. Among these applications was one filed by the newly created Auto-Train Corp. seeking authority to reparate 67 passengers the sum of \$50 each for unreasonable charges found to exist as a result of furnishing lesser service than the carrier held out in its tariff to provide during its initial "start up" period. Refunds or waivers on the special docket procedure were authorized in a total of 186 cases, aggregating \$2,378,731.

The largest single award on the special docket was one of \$834,173, involving 214 carloads of copper matte from Hurley, N. Mex. to Magna, Utah, caused by the failure of carriers to establish a commodity rate prior to movement. This award was the largest known amount of that nature ever granted on the special docket. The amount of the award was justified by a comparison of rates on similar commodities in the same rate territory.

Joint rates and through routes (domestic-international).—The filing jointly with this Commission and the Federal Maritime Commission of joint-rate tariffs applying over international-domestic through routes com-

posed of ocean carriers under the FMC and land carriers under the ICC has escalated after a very minimal interest exhibited last fiscal year.

Waste Products for Reuse and Recycling.—Although the way has been cleared under our proceedings in Ex Parte No. MC-85, *Transportation of "Waste" Products for Reuse and Recycling* 114 MCC 92, for special authorization to carriers and other parties to transport such products, the response, as evidenced by tariff filings, has been somewhat small. It is, however, expected to pick up as broader recognition and understanding of the program comes about.

Postal service.—*Responsive to Public Law 91-375, Postal Reorganization Act of 1970*, the U.S. Postal Service commenced filing copies of contracts it entered into for transportation of mail by motor carrier. Following a petition filed by that Service, the Commission rejected a tariff of a large motor-carrier tariff bureau on behalf of its member common carriers, providing rates for the transportation of mail via motor carriers with whom USPS had not contracted for service. Since the tariff served no lawful purpose, it was rejected.

Revision of Tariff Circulars.—Without interrupting the procedure whereby isolated changes are made in our tariff-publishing regulations from time to time, a complete rewrite of these regulations has been initiated which will bring together all general exceptions that have been made and have proved their worth, and provide more specifically for the newer intermodal services and rate publication.

Loss and Damage

In our last annual report we indicated our strong belief that a current loss and damage proceeding would directly affect a substantial portion of the Nation's commerce. We were then conducting a broad investigation into the practices of all regulated carriers with respect to their handling of cargo loss and damage claims. Our report was served February 24, 1972, and the public response to it tends to confirm our original impressions.⁷⁸

We found that a new approach was required to resolve not only individual claims disputes between carriers and their customers, but also to correct what has been characterized as an alarming, national crisis in cargo claims. We noted, for example, that railroads handled 2.5 million cargo claims annually, and that motor carriers handle 1 million. As a first step, we issued new rules (49 CFR 1005) for processing cargo claims. These regulations establish the form in which claims should be presented

⁷⁸ Ex parte No. 263, *Loss and Damage Claims*, 340 ICC 515.

and require carriers to acknowledge and investigate claims promptly. Carriers are also required to dispose of each claim within 120 days; otherwise they must keep claimants informed as to the status of their claims and the reasons for any delays in including them.

We further proposed two bills for the consideration of the Congress. The first would give us legal authority to prescribe additional cargo insurance standards. We presently have similar authority over the financial responsibility of motor common carriers and freight forwarders. The additional statutory authority is sought over railroads, express companies, and water carriers in order to protect the interests of the users of those modes of transportation.

The second proposal would establish this Commission as the primary adjudicatory body for resolving disputed cargo claims. By determining the merits of all unresolved claims disputes with carriers subject to our regulatory jurisdiction, we can provide dissatisfied claimants with an effective legal remedy in an area where none now exists. We believe that the mere existence of an effective remedy will encourage development of a more responsible attitude among regulated carriers toward processing cargo claims on a voluntary basis. Because most disputed claims can be resolved solely on the basis of documentary evidence, availability of this remedy would alleviate the necessity for claimants and carrier personnel to leave their normal tasks in order to attend trials.

We envision that the flow of such a tremendous amount of claims data through one channel will enable us to process claims more efficiently than presently is the case in the courts. By the use of electronic cataloguing techniques and claims analyses by computers we can be supplied with current data on a continuing basis and thereby develop and coordinate a cargo claim prevention program on a national scale. Little forethought is presently being given to a national cargo claim prevention plan. We are convinced that a coordinated program is clearly needed and we have offered to direct that effort if given the necessary authority, staff, and budgetary resources. To establish this program, bills designated S. 3717 (carrier insurance requirements) and S. 3718 (claims adjudication by the Commission) were introduced in the 92d Congress, 2d Session.

We struck down claims rules of carriers which arbitrarily limited their claims liability. This not only put an end to the unlawful activities of various carriers in reducing their claims liability, but also directly affected a pending antitrust suit filed by shipper organizations against a national association of motor carriers. Because the issue of entitlement to injunctive relief from the application by carriers of their rules was rendered moot by our decision in the *Claims* case, the United States District Court

for the District of Columbia dismissed the suit prior to a trial on the merits.⁷⁹

We made a firm commitment to the thousands of shippers and receivers of perishable commodities to look into a matter of vital concern to them. The record established sufficient justification for concern as to the manner in which perishable commodities are transported and how the cargo claims that result from that transportation are generated. As a consequence of these concerns, we have instituted a separate investigatory rulemaking proceeding⁸⁰ dealing with perishables.

Motor carriers with revenues of at least \$1 million annually are now required to report freight loss and damage claims to the Commission (*Quarterly Report of Freight Loss & Damage Claims*, 339 ICC 678). Carriers with computer capability may furnish the data on printouts with card decks or magnetic tapes in lieu of the prescribed report Form QL&D. A number of carriers adopted this alternative reporting plan, utilizing the computer to reduce the paperwork and processing burden of both the carriers and the Commission.

The reports filed have been summarized and published in a booklet entitled "Quarterly Freight Loss and Damage Claims." The first publication indicated that for the 3 months ending December 31, 1971, the carriers paid over \$52 million on 877,000 claims. Major causes for payment of claims were shortages, thefts, pilferage and hijacking. The commodity most vulnerable to claims payment was clothing, which accounted for about 10 percent of the number of claims paid and 20 percent of the total amount paid. Other commodities highly vulnerable to claims were found to be food; metal products; auto, truck, and bus parts; and electrical machinery and equipment. The largest number of claims paid due to known theft and hijacking incidents were in New Jersey and New York, accounting for over 40 percent.

The Environment

We adopted rules which allow us to better coordinate our environmental improvement effort with other Federal agencies, as well as with State and local governments.⁸¹ Interested persons have thus far raised environmental questions in only a handful of our numerous proceedings.

⁷⁹ Civil Action No. 550-70, *National Association of Wholesaler-Distributors v. American Trucking Associations, Inc., Interstate Commerce Commission* (Amicus Curiae).

⁸⁰ Ex Parte No. 284, *Investigation into the Need for Defining Reasonable Dispatch (Perishable Commodities)*.

⁸¹ Ex Parte No. 55 (Sub-No. 4), *Implementation—Natl. Environmental Policy Act*, 1969, 340 ICC 431.

Nevertheless, our procedures under the National Environmental Policy Act (NEPA) were drafted in such a manner as to enable any person to present such an issue, to allow other parties to respond, and to assist us in making an informed determination of this issue.

The Commission, in its effort to support the ultimate aims of anti-pollution programs, completed a rulemaking proceeding concerning the transportation of recyclable materials.⁸² As a direct result of our study in this proceeding, which tends to simplify some of the procedures that must be followed by applicants seeking motor carrier operating authority to carry such traffic, we hope to vitalize a transportation program which will encourage reuse and recycling of waste materials.

One major problem already experienced, however, has been the difficulty in predicting a reviewing court's interpretation of the NEPA in this developing area of the law. In Civil Docket No. 71-C-1639, *City of New York et al. v. Interstate Commerce Commission*, decided January 20, 1972, the U.S. District Court for the Eastern District of New York remanded to the Commission an abandonment proceeding involving approximately two miles of railroad line. The primary reason for the remand was the court's view that the Commission had not satisfactorily handled the environmental issue raised by certain protestants. The court expressed doubt that any change in the ultimate outcome would materialize from the remand, noting that it had "serious question whether, in view of the consistent record of losses [by the railroads] and the large sums needed to remedy deferred maintenance and for capital expenditures and the unavailability of any likely source for these, there is any alternative to allowing abandonment here, despite adverse environmental effects." On remand, the proceeding was reopened, additional evidence was received primarily on the environmental issues, and the authorization for abandonment was affirmed.

Another abandonment application, granted in July 1971, was reopened to accept environmental statements and argument, due to the alleged environmental impact of the proposed abandonment.⁸³ In this particular case, no one challenged the determination that the public convenience and necessity permit the proposed abandonment; the protesting parties merely want, attached to the Commission's approval, a condition that they will have an opportunity to show how the abandoned rail property conceivably might be used for an environmentally desirable purpose.

⁸² Ex Parte No. MC-85, *Transportation of "Waste" Products of Reuse*, 114 MCC 92.

⁸³ Finance Docket No. 26638, *Burlington Northern, Inc., Abandonment Between Fremont & Kenmore, King County, Wash.*

In the hearing in Ex Parte No. 281, *Increased Freight Rates and Charges*, 1972, counsel representing environmentalists argued that the NEPA imposes a duty on this Commission not only to consider any environmental issue raised, but to present evidence and argument on the issue. A complaint was filed by five law students seeking to set aside the Commission's action in declining to suspend an interim 2.5 percent surcharge by the Nation's railroads, because the proposed surcharge was not accompanied by an environmental impact statement. (United States District Court for the District of Columbia, Civil Action No. 971-72, *S.C.R.A.P. v. United States*). The court rolled back the increase on recyclable materials until the environmental impact is studied.

In another decision,⁸⁴ a court questioned the validity of the Federal Power Commission's implementation of the NEPA and would require an agency's staff to prepare a draft environmental statement prior to any hearing in a proceeding.

As a result of implementation of the NEPA, this Commission will be called upon to dedicate at least a portion of its extremely limited budgetary and staff resources to evaluating environmental allegations, deciding environmental issues, and developing expertise in this new area of decisional responsibility. In order to deal with these environmental matters without additional personnel, time and resources necessarily must be taken from other statutory duties. This will cause some delays in other Commission proceedings.

⁸⁴ *Greene County Planning Board v. Federal Power Commission*, Docket No. 71-1991, decided January 13, 1972, in the United States Court of Appeals for the Second Circuit.

ENFORCEMENT

Commission Program

The full range of formal enforcement methods was used during the year including actions directed to obtaining Commission orders, court injunctions, criminal penalties, civil forfeitures, and contempt citations and sanctions. Cases arose in connection with the many areas of responsibility of the Commission which are described in prior chapters of this report and, from an enforcement point of view, involved:

1. Practices directly hurting the consumer, such as providing carrier service inadequate to meet the needs of the public or not meeting the carrier's service obligation to the public.

2. Destruction of rate integrity.

3. Illegal operations in competition with authorized carriage.

4. Practices affecting capitalization.

5. Unauthorized control of carriers and antitrust matters.

6. Financial, operating, and management practices.

Our enforcement cases involved every mode of carriage within our regulation—rail, pipeline, motor, water, and freight forwarder. And they run the gamut from cases of comparatively minor significance to matters leading to very substantial fines or forfeitures.

In its enforcement role the Commission investigates particular practices whether by individual carriers or shippers or by entire segments of the transportation or shipping industries, to determine whether those practices are violative of particular provisions of the law. If there are flagrant violations or others persisted in after adequate warning, direct and formal legal action must be taken either to obtain compliance or to penalize the violator, or both. The Commission has a significant responsibility to eliminate illegal practices which are damaging to the transportation industry, its users, individual consumers, and the communities involved.

Carrier Service

Our aggressive rail car service program involving the timely placing and removing of freight cars needed to meet shipper requirements was continued throughout the year. Although shortages as significant as in

past years did not develop, violations resulted in significant civil forfeitures, as follows:

St. Louis Southwestern Railway Co.....	\$52, 200
Burlington Northern, Inc.....	78, 800
Bessemer & Lake Erie Railroad Co.....	46, 250
Western Maryland Railroad Co.....	23, 800
Gulf, Mobile & Ohio Railroad.....	32, 100
Southern Railway Co.....	10, 000
Missouri Pacific Railroad Co.....	44, 400

Areas of motor carrier service which continued to receive extensive enforcement attention as an aid to the consumer were the household goods carrier industry practices, small shipments, service, and maintenance of proper insurance for the protection of the public. Two of the first household goods carrier consumer oriented investigation proceedings involved Aero Mayflower Transit Co., Inc. (MC-C-7775) and Allied Van Lines (MC-C-7777)—both instituted in May 1972.

In the Aero-Mayflower case the Commission, after hearings in Chicago, San Francisco, Dallas, and Tampa, and following admissions by the carrier, issued a cease and desist order in August requiring compliance with ICC regulations under the threat of further penalties. Additionally, the Commission ordered a 15-day suspension of a portion of Aero-Mayflower's operating rights. Hearings on the Allied Van Lines case opened in Chicago. Investigation proceedings were also instituted against United Van Lines, North American Van Lines, Atlas Van Lines, National Van Lines, and similar proceedings involving other van lines are under consideration. During the year, 26 household goods carriers were penalized for violating consumer protection regulations, including 12 which forfeited \$2,500 or more.

The Bureau of Enforcement also participated in a number of Commission proceedings involving consumer and other service problems. Among these were its fitness participation in an application of Republic Van and Storage Co., Inc.; its participation in an investigation into the practices of AAACon Auto Transport, Inc.; and its participation on service matters in proceedings involving T.I.M.E.-DC, Inc., Great Lakes Express Co., A.C.E. Freight, Inc., Tallant Transfer, Inc., and F & W Express, Inc.

Service matters were also the subject of court actions by the Commission. Among those involving service adequacy were Spector Freight System, Inc., Turner's Express, Inc., Johnson Motor Lines, Inc., and the Marianna & Blountstown Railroad Co. Others, involving transportation without proper insurance coverage, included Clay's Transfer Co., Inc., Eastern Tank Lines, Inc., and Lewis Express, Inc. Still others,

involving the failure of the carrier timely to remit *C.O.D. funds* collected from consignee, a matter of importance to all shippers and particularly small businesses, included court actions against Quinn Freight Lines, Inc., United Freight Lines, Inc., and a carrier in North Dakota. The North Dakota carrier, for example, was ordered to remit C.O.D. collections within the required time period, was ordered to pay approximately \$2,000 in C.O.D. collections then outstanding for periods of more than 10 days, and was required to segregate C.O.D. collections from his own funds in the future. This carrier was converting the collections to his own benefit, and had been unable to make payment to the parties to whom the monies were due.

Rate Integrity

An active prosecution program against both carriers and shippers participating in practices involving rebates and concessions has continued.

The following penalties were some of the most significant during the past year involving misdescription or false billing:

United Shippers Association, Inc., St. Louis, Mo.....	\$25, 000
Cargo Consolidated Shippers Cooperative Association.....	7, 225
Blue Bird Food Products Co.....	35, 000
General Tire & Rubber Co.....	13, 500
Sindler Poultry By-Products, Inc. and Pillowtex Corp.....	6, 000
Instrument Systems Corp.....	6, 000
Max Factor & Co.....	3, 000

Noteworthy is the fact that, in cases such as those listed, undercharges are often billed and collected by the carrier as a result of our action. For instance, Blue Bird Food Products Co. paid over \$20,000 in undercharges, and The General Tire and Rubber Co. paid over \$15,500. Similarly, Hobart Manufacturing Co., which paid \$85,000 in forfeitures based on its unlawful substitution of commodities—claiming a through rate on locally assembled dishwashers—to utilize transit credits earned on inbound dishwasher parts, also paid railroads' undercharge claims of over \$100,000 on such shipments.

Atlantic Richfield Co. (ARCO) was enjoined from engaging in reciprocal arrangements with motor carriers subject to I.C.C. regulation where, in effect, a certain portion of the transportation revenues received is returned to ARCO by directly purchasing petroleum or causing others to make such purchases. Similar injunctions were obtained against three carriers: Arrow Transportation Co. of Delaware; Illinois-California Express, Inc.; and Mitchell Bros. Truck Line. Injunctions involving reci-

procuity practices are also being sought against Texaco, Inc., Phillips Petroleum Co., and Standard Oil Co. of California.

A number of other cases where rate integrity has been damaged involve the provision and obtaining of free carrier services or undeserved allowances. Some of the actions concluded during the year were:

Siskin Steel & Supply Co., Inc.	\$10, 000
Ashland Oil, Inc.	20, 375
Knight Newspapers, Inc., as successor to Beacon Journal Publishing Co.	20, 000
Western Maryland Railway Co.	5, 000
St. Johnsbury Trucking Co. Inc.	1, 250
American Beef Packers, Inc.	2, 240
Lehigh Portland Cement Co.	9, 000

Michael Schiavone & Sons, Inc., after several appeals, has paid a judgment, interest and costs in the total amount of \$127,178 in the case involving a sale over 10 years ago of waterfront property in Boston by the Boston and Maine Corp. (See page 92 of our 83rd Annual Report.)

Chemical Leaman Tank Lines, Inc., Matlack, Inc., and M & M Trucking Co., have been ordered to cease and desist furnishing mobile bins to shippers without filing appropriate tariff or schedule provisions.

Consolidated Forwarding Co., Inc., was fined \$2,200 for granting, and Centaur Prestress Co., \$600 for receiving, concessions involving a prior commitment by Consolidated to transport materials at less than its tariff rates which enabled Centaur to bid on a construction project.

Illegal Operations

Much of the Commission's enforcement activity continues to be directed to obtaining compliance with operating rights provisions of the act. The various guises and activities undertaken by those operating without authority or beyond their authority have been described in recent past annual reports and new schemes continue to be devised. Thus, again this year unlawful operators have paid fines and forfeitures; were subject to court injunctions, contempt penalties for violations of court orders, Commission cease and desist orders and findings of unfitness to conduct proposed operations; and were made subject to term limitations in operating authority granted.

This aspect of the Commission's enforcement program requires continuing attention because of the constant temptation of some carriers to undertake and some shippers to assist in the performance of regulated transportation services regardless of whether authority for the particular operation has been obtained and the tendency of each illegal operation to grow if unchecked.

Much of our effort has centered on motor carrier operations whose operators and shippers, for instance, forfeited over \$400,000 last year on civil claims made and settled by the Commission, but both unauthorized freight forwarding and broker activities also appear to be prevalent and will require increased Commission attention.

Three actions involving illegal operation by *agricultural cooperatives* are notable:

Midwest Growers Cooperative Corp. and its principal officer settled forfeiture claims against each, respectively, for \$20,000 and \$10,000 where unlawful transportation was alleged and documented.

The transportation activities of Southwest Agricultural Marketing Association, Inc., and its president were enjoined as not within the exemption.

The U.S. Court of Appeals for the Ninth Circuit denied the petition for rehearing filed on behalf of *Big Sky Farmers and Ranchers Marketing Cooperative of Montana*, et al. This action left standing the previous decision by the Court of Appeals which affirmed the District Court ruling that government traffic is included in the 15 percent limitation on nonmember transportation performed by a bona fide agricultural cooperative.

Practices Affecting Carrier Capitalization

Many of the matters and actions involved in the Commission's oversight of carrier financial activities relate to or affect carrier capitalization.

An interesting aspect of capitalization is the negative impact caused by the *extension of credit* by carriers for long periods of time, its detriment to a stable transportation industry, and the Commission's actions with respect to this problem. The Interstate Commerce Act requires a carrier to obtain cash for shipments carried, unless it extends credit *within* the terms of ICC regulations. Those terms are restrictive and our enforcement activities with respect to them must continue. During the year some of the fines and forfeitures were as follows:

Modesto & Empire Traction Co.....	\$10, 000
International Paper Co.....	12, 500
Hemingway Transportation, Inc.....	2, 000
Erie-Lackawanna Railway Co.....	5, 000
Home Transportation Co., Inc.....	1, 000
Blue Arrow-Douglas, Inc.....	1, 000

Financial and Management Practices

In order to effectively oversee financial and management related activities of the carriers there are, of course, recordkeeping and reporting

requirements placed on the carriers as well as substantive laws requiring financial responsibility in their practices and operations. Not surprisingly, even the underlying record-keeping and reporting requirements lead to enforcement actions. Among those this year: Red Star Towing and Transportation Co. fined \$3,000 for failing to file an annual report, Pilot Freight Carriers, Inc., forfeited \$10,000 for failing to keep expense records of an officer and employees; Petroleum Transit Co., Inc., forfeited \$1,000 for failing to file reports; and John Tinney doing business as John Tinney Delivery Service forfeited \$2,500 on claims which included his failure to file reports.

Eastern Freight Ways, Inc., was found in a Commission proceeding to have issued securities in aggregate (face amount) of approximately \$3,400,000 without prior Commission approval, in violation of sections 214 and 20(a) of the act. The order stated that of the total amount issued over \$1,170,000 of the securities remained outstanding in continuing violation of section 214 and 20a. We declared those obligations null and void *ab initio*. In a criminal action based upon somewhat similar violations, The Connecticut Company issued securities in violation of Section 214 of the act and the matter was disposed of upon defendant's plea of *nolo contendere*. In the Court's Acceptance of the Plea it developed that two of the three obligations would be paid and satisfied within the current year, and defendant's counsel changed its previous position that certain noteless obligations did not require Commission approval and assured the Court an application would be filed with the Commission under Section 214 seeking approval of the so-called "letter agreement" evidencing these obligations.

During the year our Bureau of Enforcement participated in lengthy and complex major Court and Commission proceedings in which the exercise of substantive financial, operational or management responsibilities of regulated carriers was at issue, involving, for example:

- The purchase of Chicago and North Western Railway Co. by its employees.
- The adequacy of freight house rentals charged freight forwarders at Chicago, Ill.
- The management of the business of the Penn Central Transportation Co. and affiliated companies.
- The management of the Kansas City Southern Railway Co., and affiliated companies.
- Loading, unloading and handling charges by rail carriers at Chicago, Ill. and St. Louis, Mo.

- Railroad freight rate structure, export-import rates and charges.
- Control, management, and antitrust implications of Navajo Freightlines' acquisition of interest in Garrett Freightlines.
- Competitive implications of practices by Greyhound Corp., its affiliate, and certain of its officers in relation to Mt. Hood Stages, Inc., an authorized passenger carrier.

ADMINISTRATION

Formal Procedures

We considered the adoption of a new rulemaking procedure to lighten a party's burden in serving statements on a long list of parties who may be only indirectly interested in the proceeding. We concluded that proceedings involving rulemaking of general interest to the public possess a quasi-legislative character, and as such require full notice to the public and full and complete opportunity to participate by all interested parties at all stages in the proceeding. We noted that, upon publication of a notice of proposed rulemaking, the public's rights in the proceeding entail not only the right to state an intent to participate, but also to appear at hearings or to receive all Commission releases in the proceeding. In view of this right of participation, we found that the proposal was not feasible because it would discourage public interest and participation, and would improperly limit the right of persons desiring to participate by filing replies to the initial statements without actually filing initial statements. It was determined that certain informal standards should be adopted which would facilitate the early specification of a person's particular interest in the proceeding and obtain a resultant paring of the list of parties upon whom statements need to be served.¹

We continued to process a rulemaking proceeding designed to examine and evaluate our existing discovery procedures and techniques, to consider certain proposed revisions of those discovery practices, and to determine whether the rules proposed or other rules or regulations of similar effect should be adopted to establish new or modify existing discovery procedures.² We also determined that a hearing examiner erred in not granting an applicant's request to file a brief inasmuch as parties to a proceeding, pursuant to the Administrative Procedure Act [5 U.S.C. § 557(c)], generally have a right to file briefs at the conclusion of a hearing.³

¹ *Petition to Amend Commission's Procedure for Rulemaking*, 340 ICC 190.

² *General Rules of Practice (Discovery Rules)*, Ex Parte No. 55 (Sub-No. 3).

³ *Sofield Transfer Co., Inc., Extension—Containers*, 115 MCC 280.

Caseload

Although the level of productivity in handling the proceedings workload, as measured by case closings, rose nearly 13 percent this fiscal year, this accomplishment was not sufficient to keep pace with the continuing increase in case openings. By the end of the year 8,858 cases had been closed, but 9,138 had been opened. The level of activity in case openings, the majority of which are applications for motor operation authority, is a function over which the Commission has little control for it must give consideration to any bona fide request of carriers, shippers or the general public.

Management

Organizational changes.—No major organizational restructuring was undertaken during the year. An internal refinement in the Bureau of Traffic resulted in consolidation of the Board of Suspension and the Fourth Section Board into a single new Suspension and Fourth Section Board.

Commission budget.—See page 86.

Management improvement.—During fiscal year 1972, the Office of Management and Budget established its governmentwide Management Review and Improvement program. This required each agency to develop a framework for the continuous review of program operations and for the systematic implementation of management actions designed to achieve continuing improvements in program operations. The overall objectives of the new program are to set in motion procedures designed to enable all agencies to increase productivity, render more timely service provide a better quality output or service, and reduce costs of operating programs in relationship to achievement of agency objectives.

Since 1964, the Commission has operated a program evaluation system which monitors the performance of major programs against Commission goals and pinpoints problem areas, such as duplication of effort, poor productivity, inefficient operations and backlogs. During the fiscal year, this system was expanded and revised in order to encompass the techniques and principles identified with the new Management Review and Improvement program required by the Office of Management and Budget.

Savings under the Commission's cost reduction program amounted to \$90,350 in fiscal year 1972. The savings resulted from the following actions: further refinements involving the Commission's reorganization of 1970 (\$7,600); paperwork reduction (\$53,500); automation of manual operations (\$14,400); and revisions in procedures (\$14,800).

Field activities.—Our field operations are conducted from 78 offices located in 48 States and the District of Columbia as shown in appendix A.

Severe budgetary restrictions continuing from preceding years dictated an austere level of operation. At the same time, the demands upon our field staff continued to increase. Indicative of our limited manpower in the field is the fact that most of our field offices are staffed with three or fewer employees. The table on page 112 illustrates some of the principal work items handled by such staff. During the year, we found it necessary to consolidate the operations of certain offices and, in some instances, to redeploy staff and reassign the workload in order to make the best use of our limited resources. Overall production by the field staff was maintained at a high level.

Every reasonable effort was made by the field staff to promptly handle and respond to consumer inquiries and complaints. Particular emphasis was given to small shipments complaints emanating from the smaller communities and towns. A special effort also was made to assist shippers of household goods inasmuch as past experiences indicate that smaller shippers located in outlying villages and communities, as well as the one-time shipper of household goods, are not familiar with the obligations and duties of carriers. Nor do they have available to them the facilities of the larger shippers to pursue claims and complaints against carriers.

As discussed on page 27, field offices were placed on a semiemergency basis in July 1971 to provide assistance to carriers, shippers and the general public during work stoppages in the rail industry.

We continued to participate in the activities of the Federal Executive Boards and to support the defense mobilization programs sponsored by the Office of Emergency Preparedness. The table on page 113 reflects the status of our executive reservist recruitment efforts and membership in the Commission's executive reserve unit.

Automatic data processing.—During the past year, the Commission initiated a major effort toward computerized analysis of carrier depreciation accounting. The techniques developed will provide the analyst with the major elements used in derivation of a depreciation rate. The Commission also developed a series of computer programs for processing all data submitted to the Commission from the transportation industry. The system will be fully implemented during the next fiscal year.

Paperwork reduction.—Efforts to reduce paperwork and improve procedures were continued throughout the year. As a result, the forms inventory was reduced by some 165 forms in spite of new programs calling

for more reporting, such as loss and damage, railroad service deficiencies and household movers complaints.

A records clean-up campaign conducted in the fall of 1971 produced savings of some \$39,000 based on replacement value of equipment and space. Some 8,800 cubic feet of records were disposed of as a result of this campaign.

Throughout the fiscal year, a special effort was made to reduce spiraling photocopying costs, which had tripled since 1969. Costs were reduced by one-third, compared with 1971, a difference of some \$13,000.

A review of the procedures for annotating and indexing decisions resulted in the transfer of this work from the attorney and examiner staff to employees in lower grades.

Manpower development.—To improve personnel proficiencies during the year, 3,300 hours of training at the Commission and 4,200 hours through the use of interagency and nongovernment facilities were utilized. Training at the Commission included continuation of our special legal instruction of new attorneys and supervisory training for newly appointed line supervisors. Our employees' assignments in management and executive training included participation in the Middle Management Institute courses at the Federal Executive Seminar Center and the Federal Executive Institute.

We also provided 2,000 hours of training for those in GS-7 and lower grades to continue our implementation of the President's Upward Mobility program. This included assisting employees to secure their high school equivalency certificates by arranging classes for them at adult education centers, and providing financial assistance for them to attend colleges and universities during off-duty hours. Shorthand training was provided so that interested employees could advance into new fields.

Review courses in typing, shorthand, mathematics, English, and office practice continued to be available for the benefit of clerical employees.

DEVELOPMENT OF POLICY

While the end result of regulation is expected to be attainment of an operable transport system that fulfills the needs of the public on an equitable basis, this goal must be approached in accord with requirements of the National Transportation Policy and the Interstate Commerce Act.

Development of long-range policies that conform with these statutes and that contribute positively to progressive transportation service is the challenge that confronts regulation in this era of rapidly changing priorities. Policy determination has traditionally involved three considerations: Commission decisions (page 75), judicial review (page 80) and legislation (page 86). In recent years, as part of its decisional process, the Commission's program has begun to invoke accelerated use of the rulemaking proceeding for shaping broad-scale policy. Another significant input into the policymaking apparatus during this reporting period was the institution of new price control criteria monitored by the executive branch.

Rulemaking Actions

The list of rulemaking proceedings which follows documents the extent to which the Commission has committed itself to determining the policy guidelines necessary for the refining of transport facilities and services to meet the present and future needs of the public interest. Unrevealed, though, are the myriad complexities involved in each of the areas identified. However, the public forum in which these proceedings are conducted presents an opportunity for full public exploration of the issues, intentions and expectations offered by this flexible and effective means of policy development.

Two proceedings which are illustrative of the depth and range to which rulemaking proceedings can be utilized in the development of policy are ex parte No. 270, *Investigation of Railroad Freight Rate Structure* and ex parte No. 271, *Net Investment—Railroad Rate Base* (see page 18). These two investigations are concerned with railroad rates, but their outcome will have an impact upon the price the public pays for virtually every purchase. Other rulemaking proceedings listed here are

similarly significant in both their primary and potential effects upon the public.

While there is a serious question whether this Commission has adequate resources to carry these rulemaking proceedings to the full scope of investigation we would like to conduct, there is no question but that this approach is more efficient and more effective than the case-by-case method of policy development.

Rulemaking Proceedings—Fiscal 1972

(*indicates action completed)

RULES AFFECTING THE BROAD RANGE OF TRANSPORTATION	
<i>Case number</i>	<i>Action</i>
No. 34013 (Sub. 1)	Cost Standards—Intermodal Rate.
Ex Parte No. 55 (Sub. 4)*	Implementation of National Environment Policy, 339 ICC 508, 340 ICC 431.
Ex Parte No. 246*	Fees for Processing Actions Before the ICC, 326 ICC 573, 329 ICC 814.
Ex Parte No. 261*	Development of Through Intermodal Transportation in U.S. Ocean Borne Trade, 337 ICC 625.
Ex Parte No. 263*	Loss and Damage Claims, 340 ICC 515.
Ex Parte No. 272	C.O.D. or Freight Collect Shipment Problems.
Ex Parte No. 273*	Substitution of Motor for Rail Service and Publication of Joint Motor-Rail Rates on Grain, etc. (Exempt Commodities), 341 ICC 88.
Ex Parte No. 275	Securities and Financial Transactions (Uniform Commercial Code).
Ex Parte No. 278	Investigation of Discrimination Practices of Carriers.
Ex Parte No. 280*	Special Procedures for Tariff Filings Under Wage and Price Stabilization Program.
Ex Parte No. 282	Railroad and Water Carrier Consolidation Procedures.
Ex Parte No. 283*	Implementation of Public Law 92-225—The Federal Election Campaign Act of 1971.
Ex Parte No. 279	Securities Regulations—Public Offerings.

RAILROADS

<i>Case number</i>	<i>Action</i>
No. 32153 (Sub. 2)	Accounting Procedures for Retirement and Impairments in value of Track.
No. 35344*	Annual Reports of Class I Railroad Companies, 341 ICC 205.
Ex Parte No. 252 (Sub. 1).	Incentive Per Diem Charges on Canadian Boxcars.
Ex Parte No. 268	Determination of Avoidable Losses Under the Railroad Passenger Service Act of 1970.
Ex Parte No. 270	Investigation of Railroad Freight Rate Structure.
Ex Parte No. 270 (Sub. 1).	Investigation of Railroad Freight Structure—Export-Import Rates and Charges.
Ex Parte No. 270 (Sub. 2).	Investigation of Railroad Freight Service.
Ex Parte No. 274	Abandonment of Railroad Lines.
Ex Parte No. 271	Net Investment—Railroad Rate Base.
Ex Parte No. 277	Adequacy and Safety of Railroad Passenger Service.
Ex Parte No. 277 (Sub. 1).	Adequacy of Inter-city Rail Passenger Service.
Ex Parte No. 285	Maintenance of Records Pertaining to Demurage, Detention and Other Related Accessorial Charges by Rail Common Carriers of Property.

MOTOR CARRIERS

No. 35345*	Requirements for Motor Carriers of Property to File Quarterly Reports of Loss and Damage Claims, 339 ICC 678.
Ex Parte No. 284	Investigation Into Need for Defining Reasonable Dispatch.
Ex Parte No. MC-1 (Sub. 3).	Credit Rules.
Ex Parte No. MC-1 (Sub. 4).	Payment of Rates and Charges of Motor Carriers' Credit Regulations—Oilfield Carriers.
Ex Parte No. MC-1 (Sub. 5).	Payment of Rates and Charges of Motor Carriers by Shippers.

MOTOR CARRIERS—Continued

<i>Case number</i>	<i>Action</i>
Ex Parte No. MC-5 (Sub. 1).*	Adequacy of Coverage Rules for Licensed Brokers of Motor Transportation, 115 MCC 1.
Ex Parte No. MC-19....	Practices of Motor Common Carriers of Household Goods.
(Sub. 7).....	Different Rate Levels for Identical Movements.
(Sub. 9)*	Agency Relationships, 115 MCC 628.
(Sub. 12)*	Exclusion of Shipments Requiring Special Handling, 113 MCC 687.
(Sub. 14)*	Charges for Reweighing Shipments, 114 MCC 279.
(Sub. 15)*	Rules for Advance Reservation of Vehicle Space by Shippers, 115 MCC 49.
(Sub. 16)*	Extension of Credit.
(Sub. 18)*	Payment of Charges After Shipment is Accidentally Destroyed by Fire.
Ex Parte No. MC-37 (Sub. 21).	Commercial Zones and Terminal Areas Wilmington, Del.
Ex Parte No. MC-37 (Sub. 22).	Commercial Zones and Terminal Areas Indianapolis, Marion County, Ind.
Ex Parte No. MC-55 (Sub. 3).	Procedural Discovery Rules.
Ex Parte No. MC-71* ..	Determining Compensatory Nature of Rates of Owner-Operators, 341 MCC 28.
Ex Parte No. MC-7* ...	Service on Shipments of New Furniture.
Ex Parte No. MC-80....	Requirements for Motor Common Carriers to Keep Records of Requests and to Explain Failures to Meet Requests.
Ex Parte No. MC-83....	Review of Administrative Ruling No. 76—Contract Carriers.
Ex Parte No. MC-85* ..	Support of Programs for Reuse and Recycling of Waste Materials, 114 MCC 92.
No. MC-C 3437.....	Motor Transportation Incidental to Transportation by Aircraft.

MOTOR CARRIERS—Continued

<i>Case Number</i>	<i>Action</i>
No. MC-C 6748*	Determination if Smoking on Buses is Detrimental to Health and Comfort of Non-Smoking Passengers, 114 MCC 256.
No. MC-C 6829*	Investigation of Limitation of Free Baggage Allowance, 115 MCC 556.

FREIGHT FORWARDERS

Ex Parte No. 266 (Sub. 1).	Scope of Terminal Areas.
-------------------------------	--------------------------

WATER CARRIERS

WC No. 19*	Standards for Water Carrier Authority Applications.
----------------------	---

Price Stabilization

While policy development in fiscal 1972 generally followed earlier trends in the areas of decisionmaking, judicial review and legislation, the effect of wage and price controls ordered by the President injected new policymaking considerations into the field of transport regulation. After the issuance, on August 15, 1971, of the President's Executive order for the stabilization of wages and prices, this Commission set a moratorium on all rate increases. This was in accord with a blanket holddown on wages and prices under Phase I of the stabilization program.

With the advent of Phase II the Price Commission permitted regulatory agencies to grant increases considered not to be violative of inflationary restrictions, and this Commission on November 22, 1971, and January 20, 1972, issued guidelines for regulated carriers to follow in filing proposals for higher rates. These guidelines, however, represented only one layer of authority over the regulation of rates, for the Price Commission retained its veto power over rate increases, even when approved by this Commission. This dual level of rate regulation confronted the carrier industries until July 20, 1972, when price stabilization rules submitted by this Commission and approved by the Price Commission became effective. This action returned the question of rate increases to the traditional area in which rate changes authorized by this Commission remain final unless challenged in the courts. We assumed full responsibility for administering the price control program as it affected rates in regulated surface transportation.

Court Actions

The test of validity of a particular administrative decision ultimately rests with the courts. While only a minute percentage of Commission decisions are placed under judicial scrutiny and fewer still are overturned, the latter can and do change the course of regulatory policy. During the year 259 cases in various stages of litigation were handled by our staff in the federal courts. At the outset of the fiscal year there were 137 cases pending, and 122 additional cases were instituted by the end of the year. Concluded were 86 cases with 173 left pending on June 30, 1972. Of the cases concluded, 5 were by the Supreme Court, 6 by courts of appeals, and 75 by district courts. A few of the most important cases are discussed below.

Freight car supply.—The Commission's imposition of mandatory car-service rules, requiring that unloaded freight cars be returned with or without a load in the direction of the owning line, was sustained by the Supreme Court in *United States v. Allegheny-Ludlum Steel Corp.*, 406 U.S. 742 (1972). Reversing the prior decision of the district court, the Supreme Court held that the Commission has authority under the Esch Car Service Act to promulgate rules designed to provide railroads with an incentive to acquire additional freight cars, and concluded that the rules adopted in Ex Parte No. 241, *Investigation of Adequacy of Railroad Freight Car Ownership*, 335 ICC 264, 335 ICC 874, were reasonable. Also in the area of car supply, the Supreme Court noted probable jurisdiction in *United States v. Florida East Coast Railway*, No. 1824, in which the Commission appealed from the district court's decision (322 F. Supp 725) setting aside, on procedural grounds, our report and order in ex parte No. 252, *Incentive Per Diem Charges—1968*, 337 ICC 217. This decision prescribed incentive per diem charges designed to improve utilization of the available car supply as well as to encourage expansion of the national car fleet.

Railroad unification.—The only rail unification case to be decided this year was *Port of Portland v. United States*, where the Supreme Court set aside the Commission's order in Spokane, *P. & S. Ry. Co. v. Union Pacific R. Co.*, 334 ICC 419. This decision of the Commission had approved the applications of the Burlington Northern and Union Pacific to acquire control of a small terminal railroad in Portland, Oreg., known as Peninsula Terminal Co., but had denied the applications of the Milwaukee and the Southern Pacific for inclusion as co-owners of Peninsula. Although stating that the result reached may be correct, the Supreme Court held that the Commission's reasoning in denying the applications of Milwaukee and SP did not conform to the "public interest"

standard of the statute, and remanded the case to the Commission for further proceedings.

At the end of the fiscal year the validity of the Commission's approval of the merger of the Illinois Central Railroad and the Gulf, Mobile and Ohio Railroad was sustained in two district courts (*Kansas City Southern Ry v. United States*, Civil No. CA-20177-2, W.D. Mo., and *Missouri Pacific Railroad v. United States*, Civil No. 72-C-136, E. D. Mo.). The merger is pending on appeal before the U.S. Supreme Court.

Reorganization of bankrupt railroads.—Various railroad reorganization problems continue to engage the attention of the courts. The 84th annual report discussed the Supreme Court's decision (399 U.S. 392) concerning the value of the New Haven, whose properties were ordered included in the Penn Central system prior to that road's own bankruptcy. Unresolved issues concerned the form that Penn Central's consideration to the New Haven should take and the status of the New Haven estate as a shareholder or creditor of the Penn Central estate. The New Haven reorganization court declared an "equitable lien" in favor of the New Haven bondholders on all New Haven properties now in the hands of Penn Central (*In the Matter of the New York, New Haven & Hartford R. Co.*, 330 F. Supp. 131 and 331 F. Supp. 212). The Penn Central reorganization court, however, refused to recognize the validity of that lien (*In the Matter of Penn Central Transportation Co.*, 337 F. Supp. 779). The impasse was resolved by the Court of Appeals for the Second Circuit, which held that the New Haven reorganization court had no jurisdiction to impose any such trust or lien, since the Penn Central reorganization court has exclusive judicial jurisdiction over the Penn Central properties. The Second Circuit remanded the case directly to the Commission, stating that further consideration of the New Haven inclusion terms should be given by the Commission as a part of the Penn Central reorganization.

The Commission filed a petition for writ of certiorari to the Supreme Court from the District of Columbia Court of Appeals' decision in *Burlington Northern, Inc. v. Interstate Commerce Commission*, 462 F. 2d 280, which denied the Commission access to BN's cash flow and income forecasts. The Court of Appeals held that the power conferred upon the Commission by Section 20(5) to inspect and copy "any and all accounts, books, records, memoranda, correspondence, or other documents" is limited to those materials which relate to the maintenance of a uniform system of accounts, and to the explanation or understanding of required accounting entries.

Railroad rates.—The Commission's decision in *Increased Waterborne Charges, North Atlantic, Pacific and Canadian Ports*, 337 ICC 534,

finding that the railroads' proposed increases in waterborne charges on import-export traffic at various ports were not shown to be just and reasonable, was sustained in two district courts—*Atchison, Topeka & Santa Fe Ry v. United State*, 334 F. Supp. 651 (D. Minn.) and *George P. Baker v. United States*, 333 F. Supp. 331 (E.D. Pa.).

In another rate case, the United States District Court for the District of Kansas, in *Wichita Board of Trade v. United States*, F. Supp. set aside our decision in *Inspection in Transit, Grain and Grain Products*, 340 ICC 69, which had found certain separately stated charges for the first in-transit inspection on grain, previously included in the line-haul rates, to be just and reasonable. The Commission found the rates to be reasonable, despite the lack of specific evidence as to the reasonableness of the line-haul rate, upon the ground that the line-haul rate would not exceed the maximum reasonable rates previously approved by the Commission. The district court, pointing to prior Commission decisions requiring specific proof of the reasonableness of the line-haul rate, reversed the Commission for failure to explain its departure from prior norms and to sufficiently spell out the legal basis of its decision. We have reopened the proceeding.

Motor carrier rates.—Three district courts upheld the Commission's assertion of jurisdiction over cancellation of voluntarily established through routes and joint rates (*Smith's Transfer Corp. v. United States*, *McLean Trucking Co. v. United States*, and *T.I.M.E.—D.C., Inc. v. United States*).

Railroad passenger service.—Despite the creation of Amtrak, passenger train discontinuances continued to be a subject of litigation. The Commission's long-standing position that it has no power under section 13a(1) of the act to impose labor protective conditions in train discontinuance proceedings was sustained by the U.S. District Court for the Northern District of Illinois in *Illinois Commerce Commission v. United States*. The same court, in a second case, also entitled *Illinois Commerce Commission v. United States*, upheld the criteria developed by the Commission in determining whether a particular train is "intercity" service or "commuter or other short-haul service" within the meaning of the Rail Passenger Service Act of 1970.

The environment.—The Commission's responsibilities under the National Environmental Policy Act were the subject of judicial scrutiny for the first time in fiscal year 1972. In *Port of New York Authority v. United States*, 451 F. 2d 783, the U.S. Court of Appeals for the Second Circuit ruled that the Commission need not consider the environmental impact of a proposed rate change at the suspension level, but may properly defer its consideration of such issues to the investigation pro-

ceeding in which the lawfulness of the rate proposal is determined. The court reasoned that the detailed balancing of costs and benefits required by NEPA is not possible in the speedy, informal suspension proceedings. In a second case, however, the U.S. District Court for the Eastern District of New York in *City of New York v. United States*, 337 F. Supp. 150, set aside the Commission's decision in *Bush Terminal Railroad Co., Entire Line Abandonment*, for failure to comply with NEPA. The court held that, in a railroad abandonment proceeding, the Commission has a duty to consider environmental issues and to issue the detailed environmental impact statement required by NEPA. Two major cases, both entitled *Students Challenging Regulatory Agency Procedure v. United States*, Civil Nos. 971-72 and 806-72 (D.D.C.), were pending at the close of the fiscal year before the U.S. District Court for the District of Columbia. These cases involved the extent of the Commission's responsibility in a general rate increase proceeding to take into account the environmental effect of the rate proposal on specific commodities, at either the suspension level or in its final decision upon completion of its investigation.

Freight forwarding.—The line of demarcation between an ICC-licensed freight forwarder and a FMC-regulated non-vessel-operating water carrier (NVO) was the subject of litigation in *IML Seatransit, Ltd. v. United States*, 343 F. Supp. 32. The Commission had held in *IML Seatransit, Ltd.—Investigation of Operations*, 339 ICC 634, that an NVO operating between the mainland and Hawaii which fully meets the statutory definition of an ICC freight forwarder cannot evade the ICC's regulatory jurisdiction merely because it is also within the definition of an FMC-regulated NVO. In reversing the Commission's decision, the U.S. District Court for the Northern District of California held that so long as an "all-water rate" is involved, the NVO need not obtain a freight forwarder permit, even though it otherwise meets the statutory definition, on the theory that in such instance the NVO is not utilizing the services of an ICC-regulated motor carrier. The Commission filed its appeal to the Supreme Court.

Review boards—joint boards.—The validity of the Commission's practice of assigning proceedings involving three or fewer states to a Review Board for handling under modified procedure, instead of to a Joint Board convened pursuant to 49 U.S.C. § 305(a), produced a series of conflicting court decisions. The Commission's position was fully sustained by a district court in Alabama in *Howard Hall Co. v. United States*, 333 F. Supp. 1076, which held that the referral of applications to a Joint Board is only a procedural matter, which is waived if not timely asserted by a party. The court further held that the Review Board's decision under

modified procedure was appropriate since the plaintiff failed to demonstrate that there was any dispute as to material facts which would necessitate an oral hearing. In *Garrett Freightlines, Inc. v. United States*, 333 F. Supp. 1267, however, an Idaho court held the provisions of section 305(a) regarding the assignment of cases to a Joint Board to be jurisdictional, so that every protested application involving three or fewer states must be referred to a Joint Board for oral hearing. A middle ground was taken by two other district courts—*Jones Truck Lines v. United States*, 321 F. Supp. 821, decided by a district court in Arkansas, and *Land-Air Delivery, Inc. v. United States*, 327 F. Supp. 808, by a district court in Kansas. Both courts held that an application involving three or fewer states might properly be decided by a Review Board rather than a Joint Board, under modified procedure, where there were no material issues of fact in dispute. But they concluded, that on the facts presented in those cases, a dispute as to material facts was presented so that an oral hearing before a Joint Board was required.

Motor carriers.—The Commission's delineation of the scope of heavy hauler authority was sustained by two district courts. In *International Transport, Inc. v. United States*, 337 F. Supp. 985 (W. D. Mo.), the Commission's conclusion that 500 and 750 pound bombs are beyond the proper scope of heavy hauler authority was affirmed. In *Pittsburgh & New England Trucking Co. v. United States*, 345 F. Supp. 743 (W. D. Pa.), the court affirmed the Commission's holding that articles which do not require special equipment because of their inherent characteristics, but which are tendered to the carrier in heavy bundles for reasons of convenience or economy, are also beyond the scope of heavy hauler authority. The plaintiff heavy haulers appealed both decisions to the Supreme Court.

With regard to motor carrier applications, the criteria developed by the Commission in *John Novak Contract Carrier Application*, 103 MCC 557, for determining whether an applicant has made a *prima facie* case for the granting of a certificate or permit was sustained by a New Jersey court (*Richard Dahn, Inc. v. United States*, 335 F. Supp. 337). The court also upheld the hearing examiner's power to close a hearing, without requiring the presentation of evidence by protestants, when the applicant has failed to establish a *prima facie* case.

In the field of private versus for-hire carriage, a district court for the District of Columbia sustained a Commission decision holding that a company may be engaged in private carriage, even though it leases both the vehicle and the drivers from separate agencies, provided it has actual control of the transportation service and assumes in significant measure the characteristic burdens of the transportation business (*National Motor*

Freight Traffic Association v. United States). Another case, also entitled *National Motor Freight Traffic Association v. United States*, pending before the same court, involves the validity of the Commission's finding of private carriage where the vehicles and drivers are leased from the same source.

The Commission noted its appeal to the Supreme Court from the decision of the U.S. District Court for the Northern District of Georgia in *Gold Kist, Inc. v. United States*, 339 F. Supp. 1249, which holds, contrary to the Commission's position, that certain cooked or precooked poultry products are within the agricultural exemption of section 203 (b) (6) of the act.

Legislation

The development of legislation affecting the Interstate Commerce Commission generally is divided into three categories: the budgetary appropriation for the agency; legislative proposals of the Commission; and legislative recommendations submitted by other interests.

There is some comingling between these categories, because each has an effect on the other two. The Commission's operating budget obviously affects its needs for new legislation and vice versa. Similarly, there is a crossover effect between agency proposals for new laws and those proposed through other channels. Each can build on the other for the continuing refinement of the Interstate Commerce Act that is needed by the public interest.

Because this report of the 1972 fiscal year touches on both sessions of the 92d Congress and all of the legislative proposals of the Commission described in the last annual report (page 111) laid over for consideration by the second session, a full recapitulation is presented here.

Commission's Budget

During 1972, the Commission appeared six times before the Appropriation Subcommittees. The President's original budget for fiscal year 1973 included \$29.4 million and 1,765 positions for Commission operations. Later amendments of \$1.5 million to cover increased pay costs and \$760,000 to finance a portion of the ex parte 270 investigation of railroad freight rates raised the total budget request to \$31,660,000. Congress approved \$33,120,000 for the Commission in 1973. This was 100 positions and \$1,460,000 more than the President's request.

In addition, the Commission requested a supplemental appropriation of \$28 million, plus interest accrued to the date of payment, in order to repay a government guaranteed loan made to the Reading Co. under part V of the Interstate Commerce Act.

On February 17, 1972, the Commission testified before the Senate Subcommittee on Intergovernmental Operations on S. 448, a bill to amend section 206 of the Budget and Accounting Act of 1921 to require the

Commission, and six other independent regulatory agencies, to transmit requests and estimates for appropriations directly to Congress, without revision by any other agency of the Government. Commission requests for appropriations now must be transmitted to the Office of Management and Budget, which revises them and transmits their recommendation to Congress.

The Commission was created to administer for Congress the statutory obligation of economic regulation of the surface transportation industry, a responsibility charged to the Legislative Branch by Article I of the Constitution. Frequently, however, it is considered a part of the executive branch.

The Commission stated that whether it, as an independent arm of the Congress should be totally responsive to that body, or should continue to be integrated with the executive branch for its funds is a matter of Congressional policy.

Commission Proposals

Through routes and joint rates.—(S. 2628 and H.R. 11031)—On May 4, 1972, the Commission testified before the Senate Subcommittee on Surface Transportation on S. 2628, a bill introduced at the Commission's request to enable the Commission to prescribe through routes and joint rates between motor common carriers of property and between such carriers and common carriers of other modes of transportation.

While the Commission has long been empowered to prescribe through routes and joint rates between railroads, between railroads and water carriers, and between bus lines, it does not have such authority over motor carriers of property. The Commission illustrated how this limitation in its authority has caused problems for shippers who must rely on more than one carrier for a single shipment. If this legislation were enacted, the Commission could, after hearing and a determination that such action was in the public interest, order trucking companies to offer combined service, upon a single charge to the shipper. The bill would also authorize the Commission to require the establishment of motor-rail and motor-water through route and joint rates.

The Commission stated that lack of through route-joint rate arrangements creates an especially heavy burden upon small shippers, and that enactment of the bill would assist it in alleviating that burden. No action was taken on the companion House bill.

Mandatory service over lines of a non-operating carrier.—S. 2494 and H.R. 9748 were introduced to implement this recommendation. On September 16, 1971, the Commission testified before the Senate Sub-

committee on Surface Transportation on S. 2494. This bill, introduced at the request of the Commission, would amend section 1(16) of the Interstate Commerce Act to grant the Commission authority to order one railroad to operate over the tracks of another in an emergency situation. Under the emergency car service provisions of the act, the Commission has broad powers to issue directions to alleviate such a situation, but they stop short of enabling it to order one railroad to operate over the lines of another railroad, even though the latter may have ceased operating.

Because of the financial condition of much of the railroad industry, the threat of cessation of needed rail service is constant and there now is no means of providing for a continuation of essential service in the event a major railroad exhausts its operating cash and is forced to discontinue service.

The bill recommended by the Commission would achieve three important objectives. The Commission would be able to prevent a cessation of essential service by directing adjacent or other connecting carriers to conduct operations over a defunct carrier's lines. By maintaining such service, the Commission could prevent a chain reaction which otherwise could thrust marginal connecting carriers into bankruptcy. Finally, the connecting carriers, knowing that they could be subjected to mandatory orders by the Commission would be more apt to enter into constructive negotiations with the debtor and among themselves for the preservation of service through participation in the debtor's reorganization. No action was taken on the companion House bill.

Other Commission Recommendations

The Commission recommended other bills which were introduced into the Senate and House of Representatives but for which no hearings were held. For example, S. 2629 and H.R. 11029 would enable the Commission to restructure essential railroad service to insure its continuance when the bankruptcy of a railroad threatens the cessation of such service.

Pursuant to this legislation, the Commission would be able to prepare a restructuring plan only (1) if the U.S. District Court with reorganization jurisdiction over the distressed railroad finds that the carrier may cease operations in the near future and (2) if the Commission finds that such cessation would have a seriously adverse effect on the public convenience and necessity.

In such an event, the Commission could then direct the distressed carrier, other railroads in the area, and other interested parties to submit

recommendations indicating prudent steps to maintain service essential to the public convenience and necessity. Upon considering the available information, the Commission could then adopt a plan which may immediately permit or require (a) joint use of the most economical facilities at fair compensation, (b) abandonment of the operations of facilities not found to be essential to the public convenience and necessity, and (c) lease of facilities or the granting of trackage rights at a fair compensation. After holding hearings, the Commission would be able to devise a plan which would permit or direct the abandonment not only of the operations but also of the facilities themselves, and not only the lease but the sale of essential properties of the distressed carrier and their purchase by another carrier at a fair compensation and on reasonable terms. Thus, the Commission could take substantially revocable actions immediately without hearings and virtually irrevocable actions after hearings.

Additional provisions detail how, when and why the Commission should form mandatory plans on restructuring. If enacted, it would preempt other sections of the Interstate Commerce Act and section 77 of the Bankruptcy Act.

Other recommendations made by the Commission for which no hearings were held are:

(1) That part V of the Interstate Commerce Act be extended by the Congress, but appropriately revised so as to vest the authorization for its administration with the Secretary of Transportation rather than the Commission.

S. 2626 and H.R. 11027 were introduced to implement the Commission's recommendation. Although no further action was taken on these bills, a proposal similar to the Commission's recommendation was included in S. 979, relating to high speed ground transportation. This bill passed the Senate on June 15, 1971, and the House on March 2, 1972. It became Public Law 92-348 on July 13, 1972.

(2) That section 22 of the Interstate Commerce Act be amended to eliminate free or reduced rates for government traffic exempt in time of war or other national emergencies and except as to commodities exempt as to other carriers.

S. 2627 and H.R. 11028 were introduced to implement the Commission's recommendation. The proposal is included in S. 2362 as reported by the Senate Committee on Commerce.

(3) That the Interstate Commerce Act be amended to give the Commission authority to oversee the acquisition and control of carriers by

noncarriers and the common control of carrier and noncarrier enterprises.

S. 2630 and H.R. 11030 were introduced to implement the Commission's recommendation.

(4) The Commission submitted an omnibus bill containing the following provisions:

(a) That sections 12(1), 204(a)(6), 304(a), and 403(a) of the Interstate Commerce Act be amended so as to enable the Commission to exempt certain transportation from regulation.

(b) That section 20a of the Interstate Commerce Act be amended so as to provide other carriers subject to our jurisdiction with the same exemptions in offering small notes or other securities issues as now is applicable to motor carriers pursuant to section 214 of the Act.

(c) That part III of the Interstate Commerce Act be amended by adding a new section 303(m) which would exempt transportation authorized by the Secretary of the Interior in and about national parks and monuments from certification or economic regulation.

(d) That section 1(15) of the Interstate Commerce Act be amended so as to permit the imposition of a penalty charge upon a railroad's use of the cars of another line whenever an emergency shortage of such equipment exists or is threatened.

(e) That section 212(a) of the Interstate Commerce Act be amended: (1) to make motor carrier operating authorities subject to suspension, change, or revocation for willful failure to comply with a provision of Chapter 29, Title 18, United States Code, Explosives and Other Dangerous Articles; and (2) to provide that the Commission may, upon reliable notice, suspend motor carrier operating authority for failure to comply with insurance regulations issued by it pursuant to section 215 thereof.

(f) That a new section 1(23)(a) be enacted so as to empower the Commission to grant temporary operating authority to railroads, pending the Commission's determination of corresponding application for permanent operating authority.

(g) That a new section 1(23)(b) be enacted so as to empower the Commission to authorize the acquisition of one railroad by another pending a final determination of an underlying permanent application.

(h) That section 216(g) of the Interstate Commerce Act be amended so as to provide this Commission with statutory authority

to impose refund provisions in proceedings involving proposed increases in rates or charges of motor carriers.

(i) That section 4 of the Interstate Commerce Act be amended so as to give the Commission discretion to allow long- and short-haul departures when investigation is unnecessary.

(j) That section 1114 of Chapter 51, Title 18, of the United States Code be amended so as to include officers and employees of the Interstate Commerce Commission.

The Senate Subcommittee requested comments on this provision; however, no further action was taken.

(k) That section 17(2) of the Act be amended so as to authorize the Commission to delegate to qualified individual employees, including transportation economists and specialists, those matters which have not involved the taking of testimony at a public hearing or the submission of evidence by opposing parties in the form of affidavits.

(l) That section 20a(12) of the Interstate Commerce Act be amended so as to make unnecessary our approval of interlocking directorates between affiliated carriers, and, at the same time, clarify that Commission approval must be obtained for interlocking directorates accomplished through different individuals representing a business entity.

(m) That section 660 of the Criminal Code (18 U.S.C. 660) should be amended so as to make it applicable to contract carriers engaged in interstate commerce.

(n) That section 16(9) and (10) of the Interstate Commerce Act be amended so as to provide civil penalties whenever there is a failure to comply with any rules, order, or regulation of this Commission not now covered.

(o) That section 10(1), (2), (3), and (4) of the Interstate Commerce Act be amended so as to provide for minimum fines for violations under part I of the act.

(p) That section 421(a) of the Interstate Commerce Act be amended so as to provide a minimum fine for first offenses by freight forwarders.

(q) That section 1(1) of the Interstate Commerce Act be amended to provide the Commission with jurisdiction over transportation in the United States when the movement is between two foreign countries through the United States.

S. 3239 was introduced to implement all of these recommendations.

(5) That the Interstate Commerce Act and the Harter Act be amended in order to provide a more effective remedy for owners, shippers, and receivers of property transported in interstate or foreign commerce to recover from surface transportation companies subject to the former act, damages sustained as a result of loss, damage, injury or delay in transit to such property.

S. 3718 was introduced to implement the Commission's recommendation.

(6) To amend the Interstate Commerce Act by adding thereto provisions authorizing the Interstate Commerce Commission in its discretion and under such rules and regulations as it shall from time to time prescribe, to establish minimum requirements with respect to security for the protection of the public for loss of or damage to the property transported by carriers subject to parts I and III of the act.

S. 3717 was introduced to implement the Commission's recommendation.

Other Proposals

Set forth below are brief reports on appearances the Commission made before congressional committees on important transportation matters, including bills which were not introduced at our request.

Attorney's fees.—On July 1, 1971, the Commission testified before the House Subcommittee on Transportation and Aeronautics on H.R. 568, H.R. 3162, H.R. 4978, H.R. 5526, H.R. 6844, and H.R. 7041. Each of these bills would amend section 20(11) of the Interstate Commerce Act to provide for the recovery of a reasonable attorney's fee in actions for damages incurred in the transportation of property.

The Commission supported the basic purpose of the legislation and described the dilemma faced by many shippers when trying to recover damages, especially on a small claim. Since the Commission does not have authority to adjudicate loss and damage claims, the shippers' only recourse is a civil action in either a state or Federal court. If the claim is small, the recovery may be less than his attorney's fee. The Commission stated that carriers and insurance companies recognizing that fact sometimes offer a half or a third to the shipper in the way of a settlement and refuse to negotiate further. For this reason, the Commission stated that the judicial remedy is ineffective for the small or occasional shipper.

The bill would permit the small shipper to sue in court without the fear that his recovery will be nullified by the cost, and would provide and incentive to carriers to settle meritorious claims expeditiously out of court.

The Commission favored the approach contained in H.R. 5526,

H.R. 6844, and H.R. 7041 which conditioned the recovery on the showing that the plaintiff previously had filed a claim with the carrier and that the claim had not been paid within 90 days of its receipt. The Commission did not support the provision in H.R. 4978 which would allow a successful defendant to recover attorney's fees from the plaintiff.

Travel agents.—On November 18, 1971, the Commission testified before the Senate Subcommittee on Foreign Commerce and Tourism on S. 2577, a bill which would establish a Bureau of Travel Agents within the Department of Transportation and would require anyone engaging in the business of conducting a travel agency to secure a registration certificate, which would be renewable every two years.

The Commission explained that its activities in this area are limited to the regulation of brokers for motor bus operators. Since the inception of broker regulation in 1935, there have been no reported instances of loss due to the default of a broker or of the failure of a broker under the Commission's regulation to perform in accordance with a contract, agreement, or arrangement.

While the Commission is in agreement with the purpose of the legislation, it had reservations about certain of the bill's provisions. Since the legislation would not repeal any section of the Interstate Commerce Act, it would result in dual regulation of certain agents. The Commission suggested that either brokers of motor passenger transportation be excluded from the purview of S. 2577 or that the pertinent licensing requirements contained in the Act be repealed. Additionally, the Commission recommended that the bill be amended to provide for bonding requirements similar to those contained in section 211(c) of the Act.

On June 27, the bill was reported from the Committee on Commerce with certain amendments, and passed the Senate on June 29, 1972.

Amtrak.—On December 8, 1971, the Commission testified before the House Subcommittee on Transportation and Aeronautics to discuss the National Railroad Passenger Corp.'s need for additional financial assistance and stated that, if Amtrak is to meet its statutory responsibility, substantial financing is necessary. The Commission also suggested that some of the funds obtained be allocated specifically for capital improvements and that consideration be given to setting a portion aside to be used in the research and development of promoting rail passenger service.

The Commission stated that pursuant to section 801 of the Rail Passenger Service Act, it had instituted a rulemaking proceeding, Ex Parte No. 277 (Sub-No. 1), to establish standards of adequacy of intercity rail passenger service. In order that Amtrak may eventually provide the ultimate in quality service, the Commission said, operating revenues will

have to be supplemented by federal subsidies in these initial years. On June 22, 1972, Public Law 92-316 was enacted which, among other things, provided additional financing for Amtrak.

Freight forwarders.—On March 14, 1972, the Commission testified before the House Subcommittee on Transportation and Aeronautics on H.R. 3822 and H.R. 7986, three bills which would affect the status of freight forwarders.

H.R. 3822 would amend the Interstate Commerce Act to permit railroads to publish and maintain rates and charges for services rendered other common carriers, which would be different and presumably lower than those maintained for other shippers. H.R. 6242 and H.R. 7986 would amend section 409(a) of the act to authorize freight forwarders subject to part IV of the act to negotiate special contracts with railroads.

Because of their unique status as carrier-shippers, freight forwarders have been prohibited from entering into joint-line or negotiated rate agreements with other common carriers, except for the sole exception set forth in section 409(a) of the act.

The Commission, as a result of commitments made to the subcommittee in June 1970, instituted a study into the status of freight forwarders in ex parte No. 266, *Investigation Into the Status of Freight Forwarders*, 339 ICC 711 (1971). A conclusion reached in this study is that the Nation's shippers need the small shipment type service provided by freight forwarders, but that the industry is, at best, static. Also concluded was that a change in regulatory treatment is necessary if forwarders are to remain viable. The Commission supported enactment of either bill.

On June 8, 1972, the Senate Subcommittee on Surface Transportation held hearings on S. 1896. The bill is a companion to H.R. 6242 and the Commission submitted a statement for the record in support of its enactment.

Freight car shortage.—On April 17, 1972, the Commission testified before the Special Subcommittee on Investigations of the House Interstate and Foreign Commerce Committee on rail freight car supply.

The Commission stated that the freight car shortage results from an inadequate number of cars and the poor utilization of the existing fleet. The situation is further aggravated by the fact that while a greatly increased car fleet is necessary, the railroad industry as a whole is too weak financially to provide the necessary funding. Additional government action, the Commission stated, seems to be the only alternative.

The Commission enumerated the actions it has taken to combat the freight car shortage. It assured the subcommittee that it shares their concern over this critical problem and that it is doing everything within its

statutory limitations to alleviate the situation. The subcommittee's findings were released in House Report No. 92-1384 (1972).

Pipelines.—On June 14, 1972, the Commission appeared before the House Subcommittee on Special Small Business Problems to review its jurisdiction over the oil pipeline industry. The Commission outlined the extent of this jurisdiction for the subcommittee. For example, the Commission stated that pipelines are not required to obtain operating authority from the Commission. Additionally, the Interstate Commerce Act does not give the Commission jurisdiction over such aspects of pipeline operations as issuance of securities, formation of interlocking directorates, mergers and consolidations, construction and abandonment of lines, or the granting of credit.

Pipelines are, however, subject to those provisions of the act which forbid unjust discrimination, require just and reasonable rates, reasonable facilities for the interchange of traffic, compliance with the long- and short-haul clause of section 4 of the act, and compliance with accounting, reporting and valuation regulations. Both the Commission and the Department of Justice have the power to institute enforcement proceedings against pipeline carriers for violation of the anti-monopoly provisions of section 7 of the Clayton Act.

The Commission explained its responsibility in connection with the annual valuation of pipeline properties and stated that it keeps abreast of the cost of pipeline construction and compiles an index of these costs as an aid to its valuation function. It was also explained how the Commission collects and uses data to develop the final value to be used for ratemaking purposes.

Surface transportation act—DOT.—On January 26, 1972, the Commission appeared before the Senate Subcommittee on Surface Transportation to testify on S. 2362, the Surface Transportation Act of 1971, and S. 2842, the Transportation Regulatory Modernization Act.

Briefly, the Surface Transportation Act contains the following major provision:

(1) Title I would establish a division within the Department of the Treasury to administer loans of up to \$5 billion to regulated transportation common carriers.

(2) Title 2 would (1) require the Commission to establish rate standards that would insure for carriers under its jurisdiction adequate rate levels; (2) compel the Commission to grant interim level rate increases whenever and to whatever extent there are cost increases; and (3) eliminate discriminatory state and local taxation of carriers regulated under parts I, II, and III of the Interstate Commerce Act.

(3) Title 3 would (1) subject bulk water transportation to regulation under certain parts of the Interstate Commerce Act; (2) subject certain agricultural commodities now exempt from regulation to full economic regulation; and (3) make provisions for expeditious administrative procedures for rail abandonments.

(4) Title 4 would require that at least 5 percent of all Federal funds given to a State from the highway trust fund be used for highway grade-crossing safety purposes.

(5) Title 5 would restore the investment tax credit and extend the 60-month amortization of purchased equipment now effective for railroads to all surface transportation modes.

(6) Title 6 would make the Interstate Commerce Commission responsible solely to Congress for its funding requirement.

The Transportation Regulatory Modernization Act of 1971 contains provisions in the following major areas:

(1) *Rates*.—The bill would establish a so-called “zone of reasonableness” within which carriers would be free to set their rates. The rate suspension powers of the Commission would be modified.

(2) *Rate Bureaus*.—The proposal would amend section 5a of the Interstate Commerce Act to limit conference ratemaking only to joint rates and/or through routes, and to the interchange of equipment and use of carrier facilities.

(3) *Abandonments*.—The proposal contains provisions, similar to those contained in the Surface Transportation Act, aimed at expediting the processing of rail abandonment cases.

(4) *Free Entry*.—The bill would amend the certification procedures of the act to relax requirements for granting motor carrier operating authority.

(5) *Other Amendments*.—(1) transfer jurisdiction to prescribe per diem charges from the Commission to the Department of Transportation; and (2) transfer authority to promulgate uniform cost and revenue accounting methods from the Commission to the Department of Transportation.

The Commission prepared a detailed and comprehensive analysis of these two bills, and commended the effort of the industry and the Department in pinpointing some of the problem areas in the transportation industry. It, however, had reservations about certain features of both bills.

With regard to the Surface Transportation Act, the Commission supported the loan provisions of title I, subject to certain amendments. It also supported those provisions relating to discriminatory State taxation, rail-highway grade crossing safety and the extension of the 5-year amorti-

zation of purchased equipment for railroads to all modes. Provisions similar to those of title 5 relating to investment tax credits, have already been enacted as part of the Revenue Act of 1971.

The Commission, however, had reservations about other features of the bills. It felt that the rate provisions of the legislation are ambiguous and to a large extent unnecessary. With regard to the provisions which would subject bulk water transportation to Commission regulation, the Commission stated that while it continues to support the principle that all water carrier rates be published, it feels that any major change in part III of the Act would be premature in view of Public Law 91-590, which provides, among other things, that the Department of Transportation undertake a comprehensive study of the economic regulation of bulk commodities and transmit a report to the Congress within 2 years.

The Commission also urged caution with respect to the proposal to remove the exempt status of certain agricultural commodities. The Commission questioned the desirability of a legislative dismantling of the exemption on a commodity-by-commodity basis and, in addition, stated that no sound economic evidence has been shown that such regulation would actually benefit shippers or the public.

With regard to the provisions of both bills to expedite the handling of rail abandonments, the Commission suggested as an alternative approach its new rules proposed in ex parte No. 274 (Sub-No. 1). These rules are aimed at expediting abandonment procedures.

Although the Commission found the Transportation Regulatory Modernization Act to be a commendable effort to address many of the critical problems facing the transportation industry, it stated it has misgivings about some of the legislation's provisions.

In the area of rates, the Commission stated that the Department's proposals are based on a number of assumptions of questionable validity. While the Department assumes that regulation acts as a serious impediment to managerial ratemaking flexibility, the Commission pointed out that it interferes in less than 1 percent of the carriers' rate filings. The Commission also asserted that a "zone of reasonableness" in ratemaking already exists and does not have to be defined by statute. To set absolute limits would bring increased rigidity to the ratemaking process rather than the flexibility which the Department seeks to achieve.

The Commission also stated that while it agrees with the Department that some reform in the rate bureau system may be necessary, it feels that their proposals would destroy much of the proven utility of the bureaus.

The Commission also took issue with the provision of the Transportation Regulatory Modernization Act relative to freedom of entry for

motor and water carriers. The justification for the proposal is based upon the false premise that adequacy of existing service is a bar to a grant of new or additional rights. The Commission has great flexibility in awarding operating rights and has often granted new or additional authority, even though existing service may be adequate, because the public would benefit from such service. The Commission also stated that the proposal to prohibit commodity delineations in carriers' certificates is impractical.

The recommendations to transfer to the Department of Transportation the Commission's authority to prescribe per diem and demurrage rates and its authority to establish uniform cost and revenue accounting methods were opposed.

On August 8, 1972, the Senate Subcommittee on Surface Transportation reported S. 2362, without recommendation, to the Senate Committee on Commerce. Prior to reporting the bill, the sections covering grade crossings, State and local tax discrimination, and the Commission's budget had been deleted from the bill, and had been reported out as individual bills. On September 7 the bill was reported by the full committee.

On March 28, 1972, the Commission testified before the House Subcommittee on Transportation and Aeronautics on H.R. 11207 and four other identical bills introduced as the Surface Transportation Act, and on H.R. 11824 and H.R. 11826, two Department of Transportation proposals.

H.R. 1107 is almost identical to S. 2362, and the Commission's critique of the bill was essentially the same as it advanced in testimony before the Senate. H.R. 11826 is identical to S. 2842. The Commission's position is the same on both bills.

H.R. 11824, another proposal introduced at the request of the Department of Transportation, was also the subject of the House hearings. This bill, divided into two parts, deals with assistance to railroads in acquiring and utilizing rolling stock and with discriminatory taxation of carrier property by State or local governments.

The Commission stated that it believes a better approach to solving the freight car shortage problem is advanced in H.R. 8109 and S. 1729. These bills would set up a semi-public corporation to acquire and make available to the railroads general service freight cars to augment the Nation's fleet. The Commission supported enactment of the discriminatory State and local tax provisions.

The House Subcommittee conducted extensive hearings on this legislation and on August 9, 1972, the bill was reported to the full Committee on Interstate and Foreign Commerce with amendments as H.R. 16281.

APPENDIX A—COMMISSION ORGANIZATION

There are five principal offices and five bureaus of the Commission, the heads of which report to the Chairman via the channels indicated on the organizational chart.

STAFF OFFICIALS

Office of the Chairman:

Public Information Officer	Warner L. Baylor
Press Information Officer	Edgar B. Hamilton, Jr.

Office of the Managing Director:

Managing Director	Robert L. Rebein
Assistant Managing Director	Joel E. Burns
Assistant to the Managing Director— Field Operations	James L. Barbour
Director of Personnel	Curtis F. Adams

Office of the Secretary—Congressional Relations:

Secretary	Robert L. Oswald
Assistant Secretary	Joseph M. Harrington

Office of the General Counsel:

General Counsel	Fritz R. Kahn
Deputy General Counsel	Arthur J. Cerra
Legislative Counsel	Larry T. Reida

Office of Proceedings:

Director	Sheldon Silverman
Associate Director	Robert J. Brooks
Deputy Director, Section of Finance...	John L. Boyd, Jr.
Deputy Director, Section of Operating Rights	Henry U. Snavely
Deputy Director, Section of Rates	Joseph T. Fittipaldi

Office of Hearings:

Chief Administrative Law Judge	Robert C. Bamford
Assistant Chief Administrative Law Judge	James E. Hopkins
Assistant Chief Administrative Law Judge	William J. Bateman

Director	John A. Grady
Assistant Director	James B. Thomas, Jr.
Bureau of Economics:	
Director	Edward Margolin
Assistant Director	Robert G. Rhodes
Bureau of Enforcement:	
Director	Bernard A. Gould
Assistant Director	John H. O'Brien
Assistant Director	Daniel M. O'Donoghue
Bureau of Operations:	
Director	Robert D. Pfahler
Assistant Director	Lewis R. Teeple
Bureau of Traffic:	
Director	Martin E. Foley
Assistant Director	Ernest R. Olson

<i>Region</i>	<i>Territory</i>	<i>Regional headquarters and field office addresses</i>
1	Regional head- quarters	Robert L. Abare, Regional Manager, Room 2211-B, John F. Kennedy Bldg., Government Center, Boston, Mass. 02203.
	Connecticut. . . .	324 U.S. Post Office, 135 High St., Hartford, Conn. 06101.
	Maine.	305 U.S. Post Office and Courthouse, 76 Pearl St., Portland, Maine 04112. Mail address: Post Office Box 167, P.S.S.
	Massachusetts. .	John F. Kennedy Bldg., Room 2211-B, Government Center, Boston, Mass. 02203. 338-342 Federal Bldg., 436 Dwight St., Springfield, Mass. 01103.
	New Hamp- shire	424 Federal Bldg., 55 Pleasant St., Con- cord, N.H. 03301.
	New Jersey. . . .	902 Federal Bldg., 970 Broad St., New- ark, N.J. 07102. 204 Carroll Bldg., 428 East State St., Trenton, N.J. 08608.

<i>Region</i>	<i>Territory</i>	<i>Regional headquarters and field office addresses</i>
	New York	518 New Federal Bldg., Maiden Lane and Broadway, Albany, N.Y. 12207. 612 Federal Bldg., 111 West Huron St., Buffalo, N.Y. 14203. 26 Federal Plaza, Room 1807, New York, N.Y. 10007. O'Donnell Bldg., Room 104, 301 Erie Blvd., West, Syracuse, N.Y. 13202.
	Rhode Island . . .	187 Westminster St., Room 402, Providence, R.I. 02903.
	Vermont	52 State St., Room 5, Montpelier, Vt. 05602.
2	Regional headquarters.	Fred E. Cochran, Regional Manager, 1518 Walnut St., Room 1600, Philadelphia, Pa. 19102.
	Delaware	See nearest ICC Field Office in New Jersey, Maryland, or Pennsylvania.
	District of Columbia.	12th and Constitution Ave., N.W., Washington, D.C. 20423.
	Maryland	814-B Federal Bldg., Charles Center, 31 Hopkins Plaza, Baltimore, Md. 21201.
	Ohio	5514-B Federal Bldg., 550 Main St., Cincinnati, Ohio 45202. 181 Federal Bldg., 1240 East 9th St., Cleveland, Ohio 44199. 255 Federal Bldg. and U.S. Courthouse, 85 Marconi Blvd., Columbus, Ohio 43215. 534 Federal Bldg., 234 Summit St., Toledo, Ohio 43604.
	Pennsylvania . . .	508 Federal Bldg., 228 Walnut St., Harrisburg, Pa. 17108. Mail address: Post Office Box 869. 1518 Walnut St., Room 1600, Philadelphia, Pa. 19102. 2111 Federal Bldg., 1000 Liberty Ave., Pittsburgh, Pa. 15222. 309 U.S. Post Office, North Washington Ave. and Linden St., Scranton, Pa. 18503.
	Virginia	10-502 Federal Bldg., 400 North 8th St., Richmond, Va. 23240. 5104 F. B. Thomas Bldg., 215 Campbell Ave. S.W., Roanoke, Va. 24011.

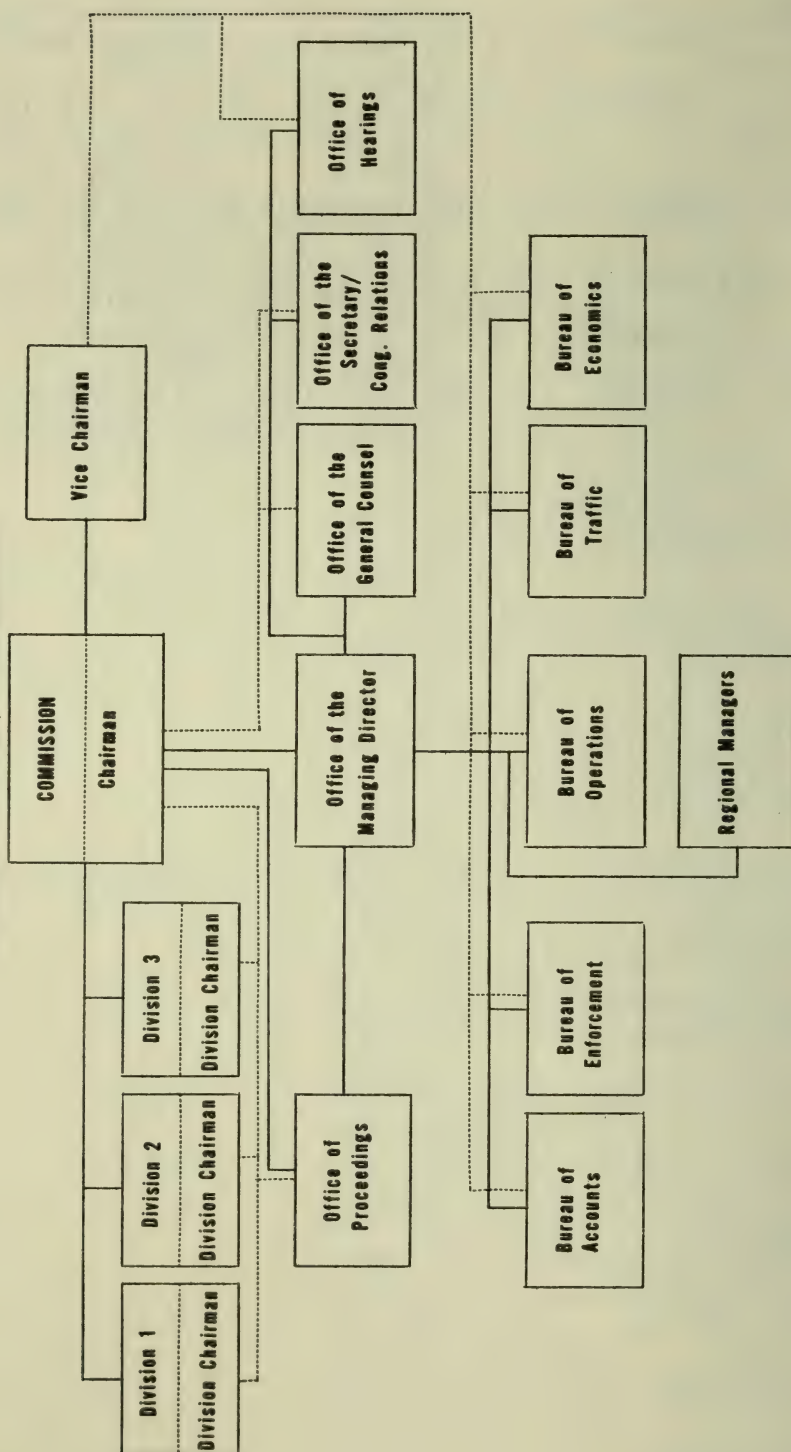
<i>Region</i>	<i>Territory</i>	<i>Regional headquarters and field office addresses</i>
	West Virginia . .	3108 Federal Bldg., 500 Quarrier St., Charleston, W. Va. 25301. 416 Old Post Office Bldg., 12th and Chapline Sts., Wheeling, W. Va. 26003.
3	Regional headquarters	James B. Weber, Regional Manager, 1252 West Peachtree St., N.W., Room 300, Atlanta, Ga. 30309.
	Alabama	2121 Bldg., Room 814, 2121 8th Ave. North, Birmingham, Ala. 35203.
	Florida	288 Federal Bldg., 400 West Bay St., Jacksonville, Fla. 32202. Mail ad- dress: Building Box No. 35008. 105 Cox Bldg., 5720 S.W. 17th St., Miami, Fla. 33155.
	Georgia	1252 West Peachtree St., N.W., Room 300, Atlanta, Ga. 30309.
	Kentucky	Bakhaus Bldg., Room 222, 1500 West Main St., Lexington, Ky. 40505. 426 U.S. Post Office, 601 West Broad- way, Louisville, Ky. 40202.
	Mississippi	145 East Amite Bldg., Room 212, Jack- son, Miss. 39201.
	North Carolina .	BSR Bldg., Suite 417, 316 East More- head St., Charlotte, N.C. 28202. Federal Bldg., Room 624, 310 New Bern Ave., Raleigh, N.C. 27611. Mail address: Post Office Box 26896.
	South Carolina .	300 Columbia Bldg., 1200 Main St., Columbia, S.C. 29201.
	Tennessee	933 Federal Bldg., 167 North Main St., Memphis, Tenn. 38103. 1808 West End Bldg., Suite 803, Nash- ville, Tenn. 37203.
4	Regional headquarters	Charles W. Buckner, Regional Man- ager, Everett McKinley Dirksen Bldg., Room 1086, 219 South Dear- born St., Chicago, Ill. 60604.

<i>Region</i>	<i>Territory</i>	<i>Regional headquarters and field office addresses</i>
	Illinois	Everett McKinley Dirksen Bldg., Room 1086, 219 South Dearborn St., Chicago, Ill. 60604. 518 Leland Office Bldg., 527 East Capitol Ave., Springfield, Ill. 62701.
	Indiana	Century Bldg., 8th Floor, 36 South Pennsylvania St., Indianapolis, Ind. 46204. 345 West Wayne St., Room 204, Fort Wayne, Ind. 46802.
	Michigan	David Broderick Tower Bldg., Room 1110, 10 Witherell St., Detroit, Mich. 48226. 225 Federal Bldg., 325 West Allegan St., Lansing, Mich. 48933.
	Minnesota	448 Federal Bldg. and U.S. Courthouse, 110 South 4th St., Minneapolis, Minn. 55401.
	North Dakota . .	Federal Bldg., and U.S. Post Office, 657 Second Ave. North, Fargo, N. Dak. 58102. Mail address: Post Office Box 2340.
	South Dakota . .	Federal Bldg., Room 369, Pierre, S. Dak. 57501.
	Wisconsin	139 West Wilson St., Room 206, Madison, Wis. 53703. 135 West Wells St., Room 807, Milwaukee, Wis. 53203.
5	Regional headquarters.	Harold M. Gregory, Regional Manager, 9A27 Fritz Garland Lanham Federal Bldg., 819 Taylor St., Fort Worth, Tex. 76102.
	Arkansas	2519 Federal Bldg., Little Rock, Ark. 72201.
	Iowa	875 Federal Bldg., 210 Walnut St., Des Moines, Iowa 50309.
	Kansas	234 Federal Bldg., Topeka, Kans. 66603. 501 Petroleum Bldg., 221 South Broadway, Wichita, Kans. 67202.
	Louisiana	T9038 Federal Bldg., and U.S. Post Office, 701 Loyola Ave., New Orleans La. 70113.

<i>Region</i>	<i>Territory</i>	<i>Regional headquarters and field office addresses</i>
	Missouri.....	1100 Federal Bldg., 911 Walnut St., Kansas City, Mo. 64106. 210 North 12th St., Room 1465, St. Louis, Mo. 63101.
	Nebraska.....	320 Federal Bldg. and U.S. Courthouse, 129 North 10th St., Lincoln, Nebr. 68508. 711 Federal Bldg., 106 South 15th St., Omaha, Nebr. 68102.
	Oklahoma.....	240 Old U.S. Post Office and Court- house, 215 Northwest 3d St., Okla- homa City, Okla. 73102.
	Texas.....	1012 Herring Plaza, 317 East 3d St., Amarillo, Tex. 79101. Mail address: Herring Plaza Box H-4395. 1100 Commerce St., Rm. 13C12, Dallas, Tex. 75202. 9A27 Fritz Garland Lanham Federal Bldg., 819 Taylor St., Fort Worth, Tex. 76102. 8610 Federal Bldg. and U.S. Court- house, 515 Rusk Ave., Houston, Tex. 77002. Mail address: P.O. Box 61212. 301 Broadway Bldg., Room 206, San Antonio, Tex. 78205.
6	Regional head- quarters.	Alfred E. Rathert, Regional Manager, 13001 Federal Bldg., 450 Golden Gate Ave., San Francisco, Calif. 94102. Mail address: Post Office Box 36004.
	Alaska.....	G-31 Federal Bldg., Anchorage, Alaska 99510. Mail address: Post Office Box 1532.
	Arizona.....	3427 Federal Bldg., 230 North 1st Ave., Phoenix, Ariz. 85025.
	California.....	7708 Federal Bldg., 300 North Los An- geles St., Los Angeles, Calif. 90012. 13001 Federal Bldg., 450 Golden Gate Ave., San Francisco, Calif. 94102. Mail address: Post Office Box 36004.
	Colorado.....	2022 Federal Bldg., 1961 Stout St., Denver, Colo. 80202.
	Idaho.....	550 West Fort St., Boise, Idaho 83702. Mail address: Box 07.
	Montana.....	251 U.S. Post Office, Billings, Mont. 59101.

<i>Region</i>	<i>Territory</i>	<i>Regional headquarters and field office addresses</i>
	Nevada.....	203 Federal Bldg., 705 North Plaza St., Carson City, Nev. 89701.
	New Mexico...	1106 Federal Office Bldg., 517 Gold Ave., S.W., Albuquerque, N. Mex. 87101.
	Oregon.....	450 Multnomah Bldg., 319 S.W. Pine St., Portland, Oreg. 97204.
	Utah.....	5239 Federal Bldg., 125 South State St., Salt Lake City, Utah 84111.
	Washington....	6130 Arcade Bldg., 1319 2d Ave., Seattle, Wash. 98101.
	Wyoming.....	1006 Federal Bldg. and Post Office, 100 East B Street, Casper, Wyo. 82601.

INTERSTATE COMMERCE COMMISSION



APPENDIX B—COMMISSION WORKLOAD

TABLE 1.—Distribution by method of disposition of proceedings cases closed during fiscal year 1972 compared to fiscal years 1970 and 1971 and average time in months from date of filing to closing

	Dismissed or discontinued					
	Fiscal year 1970		Fiscal year 1971		Fiscal year 1972	
	Cases	Months	Cases	Months	Cases	Months
Orally heard rail merger cases	—	—	—	—	1	67.0
Rail finance cases (other than orally heard rail merger cases)	30	6.3	39	8.9	40	11.2
Motor carrier finance cases	32	6.3	22	9.2	23	9.4
Motor carrier operating authority cases	458	6.6	618	7.2	786	8.8
Motor carrier complaint cases	548	4.1	559	3.3	527	3.9
Water carrier cases	3	11.3	5	6.0	4	5.0
Formal docket cases (rate complaints and investigations)	62	12.5	55	5.7	46	5.4
Investigation and suspension cases (motor)	836	1.4	849	1.3	926	1.4
Investigation and suspension cases (rail)	61	2.5	53	2.7	67	3.3
All other cases	11	5.5	11	8.9	8	6.4
Total all types	2,041	3.8	2,211	3.9	2,428	4.7

	Decided by effective recommended report and order					
	Fiscal year 1970		Fiscal year 1971		Fiscal year 1972	
	Cases	Months	Cases	Months	Cases	Months
Orally heard rail merger cases	—	—	2	17.0	1	12.0
Rail finance cases (other than orally heard rail merger cases)	9	11.7	17	13.9	19	17.2
Motor carrier finance cases	19	13.8	25	13.9	31	16.6
Motor carrier operating authority cases	622	10.9	490	11.6	306	13.2
Motor carrier complaint cases	11	11.5	13	14.6	6	13.7
Water carrier cases	1	7.0	—	—	1	15.0
Formal dockets cases (rate complaints and investigations)	30	9.9	25	10.3	19	8.8
Investigation and suspension cases (motor)	4	9.5	—	—	—	—
Investigation and suspension cases (rail)	1	21.0	1	5.0	—	—
All other cases	3	12.3	3	12.0	1	16.0
Total all types	700	11.0	576	11.8	384	13.5

	Decided by final report after service of initial report					
	Fiscal year 1970		Fiscal year 1971		Fiscal year 1972	
	Cases	Months	Cases	Months	Cases	Months
Orally heard rail merger cases	1	45.0	2	21.5	5	32.6
Rail finance cases (other than orally heard rail merger cases)	21	17.8	28	15.5	32	21.7
Motor carrier finance cases	41	23.2	43	20.9	60	25.9
Motor carrier operating authority cases	920	19.8	841	17.5	602	20.7
Motor carrier complaint cases	28	19.7	24	23.5	38	19.4
Water carrier cases	3	23.0	3	19.3	—	—
Formal dockets cases (rate complaints and investigations)	70	20.5	51	20.9	68	18.6
Investigation and suspension cases (motor)	3	25.0	1	15.0	1	20.0
Investigation and suspension cases (rail)	5	20.0	3	29.3	1	13.0
All other cases	19	32.6	17	34.2	13	26.4
Total all types	1,111	20.2	1,013	18.3	820	21.0

	Decided by final report without a previous initial report						Total cases		
	Fiscal year 1970		Fiscal year 1971		Fiscal year 1972		Fiscal year 1970	Fiscal year 1971	Fiscal year 1972
	Cases	Months	Cases	Months	Cases	Months			
Orally heard rail merger cases	—	—	—	—	—	—	1	4	7
Rail finance cases (other than orally heard rail merger cases)	382	2.8	356	2.9	447	4.2	442	440	538
Motor carrier finance cases	239	6.4	221	6.4	218	7.3	331	311	332
Motor carrier operating authority cases	3,284	6.4	3,280	7.0	4,313	8.4	5,284	5,229	6,007
Motor carrier complaint cases	18	7.2	15	8.5	9	4.2	605	611	580
Water carrier cases	16	3.3	11	5.3	10	6.4	23	19	15
Formal dockets cases (rate complaints and investigations)	26	25.6	5	8.8	31	19.6	188	136	164
Investigation and suspension cases (motor)	86	5.6	78	6.3	72	6.9	929	928	999
Investigation and suspension cases (rail)	26	7.7	37	9.0	39	7.3	93	94	107
All other cases	35	9.2	44	8.3	87	13.5	68	75	109
Total all types	4,112	6.2	4,047	6.7	5,226	8.1	7,964	7,847	8,858

TABLE 2.—Proceedings cases opened and closed during fiscal year 1972 as compared to prior calendar and fiscal years

	Calendar year 1968	Calendar year 1969	Calendar year 1970	Calendar year 1971
Pending beginning of year	5,390	4,704	5,421	5,670
Openings during year	7,436	8,223	8,250	9,509
Closings during year	8,122	7,506	8,001	8,155
Pending end of year	4,704	5,421	5,670	7,024

	Fiscal year 1969	Fiscal year 1970	Fiscal year 1971	Fiscal year 1972
Pending beginning of year	5,264	4,962	5,332	6,217
Openings during year	7,508	8,334	8,732	9,138
Closings during year	7,810	7,964	7,847	8,858
Pending end of year	4,962	5,332	6,217	6,497

TABLE 3. Informal proceedings

	1970	1971	1972
Applications for motor temporary authority:			
Filed	8,018	8,971	7,843
Disposed of	8,022	8,943	7,786
Pending at end of year	48	76	133
Petitions in applications for motor carrier temporary authority:			
Filed	815	989	1,021
Disposed of	819	968	1,027
Pending at end of year	65	86	80
Applications to deviate from regular routes:			
Filed	278	207	232
Disposed of	285	211	228
Pending at end of year	28	24	28
Petitions in deviation filings:			
Filed	7	7	3
Disposed of	9	9	1
Pending at end of year	2	0	2
Proceedings to revoke operating rights without hearing:			
Instituted	805	837	733
Disposed of	797	801	770
Pending at end of year	115	151	114

TABLE 4.—Tariffs and schedules, fiscal year 1972

	Received	Criticized	Rejected
Freight:			
Common carrier, tariffs:			
Rail	69,854	717	261
Motor	184,202	7,907	2,700
Water	8,029	60	57
Pipeline	508	2	1
Freight forwarder	9,966	92	86
Total	272,559	8,778	3,105
Contract carrier, schedules:			
Motor	5,020	636	221
Water	117	3	0
Total	5,137	639	221
Total freight	277,696	9,417	3,326
Passenger, tariffs:			
Common carrier:			
Rail	1,073	34	5
Motor	9,170	892	119
Water	59	6	2
Total	10,302	932	126
Contract carrier: Motor	13	2	0
Express, tariffs:			
Rail	257	4	0
Motor	552	7	0
Total	809	11	0
Total passenger and express	11,124	945	126
Grand total	288,820	10,362	3,452

NOTES: Also filed were 20,961 quotations or tenders under section 22 of the act for Government transportation of property or persons at reduced rates.

Applications requesting permission to change rates or other tariff provisions on less-than-statutory notice, or to depart from the tariff publishing rules, numbered 6,552. A total of 4,188 copies of contracts and amendments to existing contracts between motor contract carriers and shippers were filed, while 19,394 contracts and amendments between freight forwarders and motor common carriers were filed pursuant to section 409 of the act.

TABLE 5.—Fourth section actions

	Number	Petitions for modification of orders
Applications:		
On hand beginning of year	23	0
Received during year	228	6
Total	251	6
Disposed of during year:		
Granted	216	3
Denied	2	3
Granted and denied in part	1	0
Withdrawn	2	0
Dismissed	2	0
Total	223	6
Pending at end of year	28	0

Petitions for reconsideration of Board's action, 3; applications protested against granting of relief, 8; and relief withheld pending hearings in applications, 10.

TABLE 6.—Released rates board

	Number	Petitions for modifications of orders
Applications:		
On hand beginning of year	18	1
Received during year	62	6
Total	80	7
Disposed of during year:		
Granted	48	5
Denied	4	0
Granted and denied in part	7	0
Total	59	5
Pending June 30, 1972	21	2

Petitions for reconsideration of Board's action, 4; applications protested against granting of relief, 3; and relief withheld pending hearings in applications, 2

TABLE 7.—Action taken on proposals considered for suspension

	Rail	Motor	Water	Freight for- warder	Express pipeline	Number	Percent
Suspended in full	139	1,327	21	62	5	1,554	38.2
Suspended in part	3	302	0	2	7	314	7.8
Not suspended (permitted to become effective)	385	864	74	30	18	1,371	33.6
Otherwise disposed of (schedules rejected, protest withdrawn, protested schedules canceled by carriers)	58	732	4	38	0	832	20.4
Total	585	3,225	99	132	30	4,071	100.0

TABLE 8.—Bureau of Operations—Field program: railroads, motor carriers, water carriers, and freight forwarders

	Fiscal years	
	1971	1972
Motor-water-forwarder:		
Enforcement:		
Complaints of violations received	5,577	9,215
Complaints investigated and action taken	2,693	2,403
Investigations with court action expected	1,029	983
Other complaints received and handled (service, household goods, etc.)	23,595	20,886
Motor carrier general compliance surveys	1,677	1,377
Other enforcement matters	17,157	16,773
Operating authority:		
Permanent authority applications	5,372	5,841
Temporary operating authority	8,713	8,398
Certificates of registration	49	54
Transfer proceedings section 212(b)	304	906
Transfer section 5	326	349
Temporary authority with acquisition	246	227
Rate bureau agreements	11	25
Revocations and dismissals	249	229
Other operating authority matters	32,783	36,209
Rates and tariffs:		
Assistance in tariff and rate publication	2,012	2,288
Tariff and rate interpretations	6,252	6,128
Insurance:		
Insurance compliance delinquencies	4,548	4,023
Other insurance matters (lapses, filings, requirements, etc.)	5,831	5,488
Accounts:		
Accounting report delinquencies	1,302	1,281
Other accounting matters	2,173	2,446
Railroads:		
Car service:		
Agencies and yards checked for general compliance	4,336	4,134
Seasonal commodity surveys and expediting checks	649	480
Enforcement:		
Special investigations on complaints and service	4,762	4,314
Enforcement investigations and compliance surveys	557	454
Cooperative agreements with States:		
Exchange of information	8,626	8,755
Evidence furnished	370	435
Witness in State proceedings	25	23
Joint investigations or conference	568	641

TABLE 9.—ICC unit of the National Defense Executive Reserve: status of membership and recruitment at close of fiscal year

UNDER group	Fiscal year 1970			Fiscal year 1971			Fiscal year 1972		
	On rolls	Additional nominees	Total	On rolls	Additional nominees	Total	On rolls	Additional nominees	Total
Rail	628	255	883	683	246	929	693	200	893
Motor	181	27	208	196	29	225	203	10	213
Water	54	9	63	58	13	71	61	3	64
Other	17	0	17	17	0	17	17	0	17

TABLE 10.—Car supply:—Cars installed, retired, and ordered

	Fiscal year			
	1957	1962	1967	1972
Cars installed:				
Box	31,364	7,368	29,088	15,099
Refrigerator	4,370	2,900	5,312	2,837
Gondola	8,224	441	7,681	5,809
Hopper	23,367	10,340	16,891	12,007
Covered hopper	5,735	2,415	18,890	5,847
Flat	2,164	1,612	3,627	1,330
Other	4,279	266	2,944	50
Total cars	79,503	25,342	84,433	42,979
Cars retired:				
Box	21,746	36,057	34,428	23,387
Refrigerator	4,367	6,170	4,262	8,947
Gondola	9,131	9,316	14,827	9,588
Hopper	12,350	27,297	17,819	23,280
Covered hopper	118	281	1,293	1,621
Flat	730	1,818	1,236	*—18,584
Other	2,430	4,045	2,529	4,295
Total cars	50,872	84,984	76,394	52,534
Cars ordered:				
Box	9,872	7,527	11,224	11,011
Refrigerator	3,040	2,847	4,222	3,543
Gondola	9,445	732	5,701	4,551
Hopper	19,137	9,268	10,567	7,414
Covered hopper	5,692	4,806	12,960	9,177
Flat	1,005	4,941	8,316	2,724
Other	5,498	6,518	10,644	4,803
Total cars	53,689	36,639	63,634	43,223

*Negative retirement indicates increase in ownership in excess of new installations resulting from reclassification or transfer of equipment, purchase or lease of used equipment, etc.

TABLE 11.—Ownership, serviceable ownership, and turnaround time, class I railroads

	1957	1962	1967	1972
Ownership:				
Plain box	680,597	591,433	444,455	345,718
Equipped box	51,476	58,848	131,905	176,473
Total box	732,073	650,281	576,360	522,191
Refrigerators	99,432	87,666	103,347	92,597
Gondolas	277,516	252,952	204,673	181,758
Hoppers	517,428	459,812	425,302	379,125
Covered hoppers	50,156	67,129	114,999	139,109
Flat	50,183	53,652	66,333	95,358
Others	83,234	70,882	59,934	44,920
Total cars	1,810,022	1,642,374	1,550,948	1,455,058
Serviceable cars:				
Plain box	651,527	542,305	413,690	314,360
Equipped box	48,965	55,289	126,910	166,440
Total box	700,492	597,594	540,600	480,800
Refrigerators	93,938	84,183	99,913	88,508
Gondolas	261,756	221,883	190,373	169,868
Hoppers	494,771	423,058	407,317	362,324
Covered hoppers	49,308	65,690	112,021	133,718
Flat	48,283	50,847	63,269	90,522
Others	79,911	67,585	57,772	43,129
Total cars	1,728,459	1,510,840	1,471,265	1,368,869
Calendar year				
	1956	1961	1966	1971
Turnaround time-days:				
Box	16.19	19.76	19.35	24.01
Refrigerators	28.08	32.33	39.62	35.46
Gondolas	16.07	22.47	19.09	20.76
Hoppers	14.09	17.13	13.88	15.31
Covered hoppers	16.63	21.85	20.21	21.98
Flat	22.22	15.06	12.29	13.78
Average all cars	16.37	19.85	17.98	20.14

TABLE 12.—Service orders, rerouting orders, and embargoes (fiscal year 1972)

Service order numbers	Date effective	Purpose	Date of expiration	Date vacated
Service Order No. 957*	12-17-64	Missouri-Kansas-Texas Railroad Co. rerouting of traffic-substitute switching service at Mangum and Frederick, Okla.	None	
Amended:				
994*	12-31-71	Rerouting of traffic-appointment of agents.	12-31-72	
995*	12-31-71	Appointment of embargo agents.	12-31-72	
1002*	12-31-71	Car distribution directions—Appointments of agents.	12-31-72	
1025*	5-31-71	Regulations for return of covered hopper cars.	12-31-71	
1025-A	10-15-71	do.		10-15-71
1030*	9-30-71	Chicago, Rock Island & Pacific Railroad Co. authorized to operate over tracks of the Atchison, Topeka & Santa Fe Railway Co.	12-31-71	
1030	12-31-71	do.		
1030-A	4-11-72	do.	6-30-72	
1042*	12-31-71	Chicago & North Western Railway Co. authorized to operate over tracks of the Chicago, Rock Island Pacific Railroad Co.	3-31-72	4-11-72
1042	3-31-72	do.	6-30-72	
1042-A	5-11-72	do.		5-11-72
1043*	8-10-71	Regulations for return of hopper cars.	12-31-71	
1043	12-31-71	do.	6-30-72	
1043	5-19-72	do.	12-31-72	
1046*	6-30-71	Burlington Northern, Inc., Chicago, Rock Island & Pacific Railroad Co., and Toledo, Peoria & Western Railway Co. authorized to operate over tracks of the Peoria & Pekin Union Railway Co.	12-31-71	
1048*	12-31-70	Union Pacific Railroad Co. authorized to operate over tracks of the Southern Pacific Co.	12-31-71	
1048-A	10-26-71	do.		10-26-71
1051*	12-31-71	Distribution of privately owned cars.	6-30-72	
1055*	12-31-71	Burlington Northern, Inc., and Chicago, Milwaukee, St. Paul & Pacific Railroad Co. authorized to operate over trackage abandoned by Sioux City Terminal Railway Co.	6-30-72	

See footnote at end of table.

Table 12.—Service orders, rerouting orders, and embargoes (fiscal year 1972)—Continued

Service order numbers	Date effective	Purpose	Date of expiration	Date vacated
1055	6-30-72	do.	12-31-72	
1057*	7-31-71	Atchison, Topeka & Santa Fe Railway Co. authorized to operate over tracks of the St. Louis-San Francisco Railway Co.	9-30-71	
1057	9-30-71	do.	12-31-71	
1057	12-31-71	do.	6-30-72	
Revised 1061*	6-30-71	Regulations for return of hopper cars.	9-30-71	
Amended:				
1063*	7-19-71	Railroad operating regulations for freight car movement. (Order suspended.)	12-31-71	
1063	8-23-71	do (order reinstated).	12-31-71	11-19-71
1063-A	11-19-71	do.		
Revised 1064*	7-9-71	Distribution of boxcars.	9-30-71	
Amended 1064	7-16-71	do.	9-30-71	
Revised 1064	8-11-71	do.	9-30-71	
Amended:				
1067*	6-30-71	Distribution of boxcars (C&NW Sys, IC).	9-30-71	7-15-71
1067-A	7-15-71	do.		
1070*	6-30-71	Chicago, Rock Island & Pacific Railroad Co. authorized to operate over tracks of Chicago & North Western Railway Co.	12-31-71	
1072*	6-30-71	Distribution of boxcars.	12-31-71	
Revised 1072	11-15-71	do.	3-31-72	
Amended 1072	3-31-72	do.	6-30-72	
Service Order No. 1073*	5-12-71	Soo Line Railroad Co. authorized to operate over certain trackage of Burlington Northern, Inc.	11-30-71	
Amended:				
1074*	12-31-71	Union Pacific Railroad Co. authorized to operate over certain trackage	1-31-72	
1074	1-31-72	of Burlington Northern, Inc.	2-29-72	
1074	2-29-72	do.	3-31-72	
1074	3-31-72	do.	4-30-72	
1074	4-30-72	do.	8-31-72	

1075*	7-24-71	Distribution of refrigerator cars.	8-31-71	
1075-A	8-20-71	.....do.		8-20-71
Service Order No. 1076	7- 5-71	Chicago, Rock Island & Pacific Railroad Co. authorized to operate over certain trackage of Union Pacific Railroad Co.	12-31-71	
Amended:				
1076	12-31-71	.....do.	3-31-72	
1076	3-31-72	.....do.	9-30-72	
Service Order No. 1077	7-23-71	Kansas City Southern Railway Co. authorized to operate over certain trackage of Southern Pacific Transportation Co.	8-31-71	
Amended:				
1077	8-31-71	.....do.	11-30-71	
1077-A	11- 1-71	.....do.		11- 1-71
Service Order No.:				
1078	8-15-71	Distribution of boxcars.	11-30-71	
1078-A	11- 5-71	.....do.		11- 5-71
1079	10- 5-71	C. S. Green & Company, Inc., authorized to operate to Halifax, N.S., and Montreal, Que., Canada and other ports.	10-20-71	
Amended:				
1079	10-20-71	.....do.	11-20-71	
1079	11-20-71	.....do.	12-15-71	
1079-A	12- 4-71	.....do.		12- 4-71
Service Order No. 1080	10-16-71	New England Forwarding Co., Inc., authorized to operate through Halifax, N.S., and other Canadian ports.	10-31-71	
Amended:				
1080	10-31-71	.....do.	11-20-71	
1080	11-20-71	.....do.	12-15-71	
1080-A	12- 4-71	.....do.		12- 4-71
Service Order No. 1081	10-26-71	Union Pacific Railroad Co. authorized to operate over tracks of the Southern Pacific Transportation Co.	6-30-72	
Amended 1081	6-30-72	.....do.	12-31-72	
Service Order No. 1082	10-27-71	Star Forwarders, Inc., authorized to operate through Halifax, N.S., and Montreal, Quebec, Canada and other ports.	11-26-71	
Amended:				
1082	11-26-71	.....do.	12-15-71	
1082-A	12- 4-71	.....do.		12- 4-71

See footnote at end of table.

TABLE 12.—Service orders, rerouting orders, and embargoes (fiscal year 1972)—Continued

Service order numbers	Date effective	Purpose	Date of expiration	Date vacated
Service Order No. 1083	10-29-71	Southern Pacific Transportation Co. authorized to operate over tracks of the Texas and Pacific Railway Co.	12-15-71	
Amended: 1083	12-15-71 ----- do.			
1083	6-30-72 ----- do.		6-30-72	
Service Order No. 1084	11-16-71	Chicago, Rock Island & Pacific Railroad Co. authorized to operate over tracks of Chicago and North Western Railway Co.	12-31-72	
Amended 1084	6-30-72 ----- do.		6-30-72	
Service Order No.: 1085	11-15-71	Burlington Northern, Inc., authorized to operate over tracks of Decker Coal Co. between Arno- Wyo., and Decker, Mont.	12-31-72	
1086	12-31-71	Chicago- Rock Island & Pacific Railroad Co. authorized to operate over tracks of Peoria and Pekin Union Railway Co.	6-30-72	
Amended 1086	6-30-72 ----- do.		12-31-72	
Service Order No. 1087	12-31-71	Burlington Northern, Inc., authorized to operate over tracks of the Peoria and Pekin Union Railway Co.	6-30-72	
Amended 1087	6-30-72 ----- do.		12-31-72	
Service Order No.: 1088	1-18-72	Central Railroad Co. of New Jersey (Robert D. Timpany, trustee) authorized to operate over tracks of the Lehigh Valley Railroad Co. (John F. Nash and Robert C. Haldeman, trustees).	3-31-72	
1089	2- 3-72	New York Dock Railway authorized to operate over trackage abandoned by Bush Terminal Railroad Co.	5- 3-72	
Amended 1089	5- 3-72 ----- do.		8- 1-72	
Service Order No.: 1090	2-10-72	Burlington Northern, Inc., authorized to operate over tracks of the Chicago and North Western Railway Co.	6-30-72	
1090-A	5-31-72 ----- do.			5-31-72
1091	3- 3-72	Norfolk & Western Railway Co. authorized to operate over tracks of Penn Central Transportation Co., George P. Baker, Richard C. Bond, Jervis Langdon, Jr., and Willard Wirtz, trustees.	6-30-72	

Amended 1091 Service Order No. 1092	6-30-72 -----do. 3- 6-72 Missouri Pacific Railroad Co. authorized to operate over tracks of Illinois Central Railroad Co.	12-31-72 5-31-72
Amended 1092 Service Order No. 1093	5-31-72 -----do. 4- 1-72 Burlington Northern, Inc., authorized to operate over tracks of Minneapolis Industrial Railway Co.	12-31-72 6-30-72
Amended 1093 Service Order No. 1094	6-30-72 -----do. 4- 1-72 Lehigh Valley Railroad Co., John F. Nash and Robert C. Haladama- trustees, authorized to operate over tracks of Lehigh Coal & Navigation Co. (formerly operated by the Central Railroad Co. of New Jersey, Robert D. Timpany, trustee).	9-30-72 ; 30-72
Amended 1094 Service Order No.: 1095	5-30-72 -----do.	7- 3-72
1096	3-28-72 The Central Railroad Co. of New Jersey, Robert D. Timpany, trustee, ordered to cancel certain embargoes.	5-30-72
1097	4-13-72 Southern Railway Co. authorized to operate over tracks of St. Louis-San Francisco Railway Co. and over tracks of Missouri Pacific Railway Co.; Missouri Pacific Railroad Co. authorized to operate over tracks of Southern Railway Co.	9-30-72
1098	5- 2-72 Illinois Terminal Railroad Co. authorized to operate over trackage of Chicago and North Western Railway Co.	10-31-72
1099	5-11-72 Chicago & North Western Railway Co. authorized to operate over tracks abandoned by the Chicago, Rock Island & Pacific Railroad Co.	10-31-72
1100	6- 1-72 Delray Connecting Railroad Co. authorized to operate over tracks abandoned by the Detroit, Toledo & Ironton Railroad Co.	12-31-72
	6- 9-72 Union Pacific Railroad Co. authorized to operate over tracks of Agricultural Products Corp. between Epco, Caribou County, Idaho, and Dry Valley, Caribou County, Idaho.	12-31-72

See footnote at end of table.

TABLE 12.—Service orders, rerouting orders, and embargoes (fiscal year 1972)—Continued

Service order numbers	Date effective	Purpose	Date of expiration	Date vacated
REROUTING ORDER NUMBERS:				
Amended:				
12*	6-30-71	New York, Susquehanna & Western Railroad Co. unable to transport traffic between Sparta, N.J., and Stockholm, N.J., because of a bridge out of service.	12-31-71	
12	12-31-71	.....do.		
16*	9-30-71	Penn Central unable to transport traffic over its line between Chester, W. Va., and Josephstown, Pa., because of track damage.	3-31-72 12-31-71	
16	12-31-71	.....do.		
16	6-30-72	.....do.	6-30-72	
26*	9-30-71	Atchison, Topeka & Santa Fe Railway Co. unable to transport traffic on its line between Eskridge, Kans., and Alma, Kans., because of track damage from flooding.	12-31-71	
26	12-31-71	.....do.		
26-A	4-11-72	.....do.		
39*	9-30-71	Chicago & North Western Railway Co. unable to transport traffic on its line between Nora, Nebr., and Cadams, Nebr., because of bridge damage.	6-30-72 3-31-72	4-11-72
39	3-31-72	.....do.		
47*	12-31-71	Chicago, Rock Island & Pacific Railroad Co. unable to transport traffic over its line between Rock Rapids, Iowa, and Sioux Falls, S. Dak., because of track damage caused by floods and high water.	9-30-72	
47	3-31-72	.....do.		
47-A	5-11-72	.....do.		
49*	9-30-71	Penn Central Transportation Co. unable to transport traffic over its line between Ogdensburg, N.Y., and Prescott, Ontario, Canada, because of damage caused by fire, to its ferry slip at Ogdensburg, N.Y.	6-30-72 12-31-71	5-11-72

49	12-31-71	do.	6-30-72
49	6-30-72	do.	12-31-72
56*	6-30-71	Penn Central Transportation Co., George P. Baker, Richard C. Bond, Jervis Langdon, Jr., and Willard Wirtz, trustees, unable to interchange traffic with the Soo Line Railroad Co. at Mackinaw City, Mich., because of car ferry out of service.	7-31-71
56-A	7-16-71	do.	7-16-71
57*	7-31-71	Penn Central Transportation Co., George P. Baker, Richard C. Bond, Jervis Langdon, Jr., and Willard Wirtz, trustees, unable to transport traffic over its line between Plymouth, Ind., and South Bend, Ind., because of track and bridge damage.	8-31-71
57	8-31-71	do.	9-30-71
57	9-30-71	do.	10-31-71
57	10-31-71	do.	12-31-71
57	12-31-71	do.	3-31-72
57	3-31-72	do.	6-30-72
57	6-30-72	do.	12-31-72
59	7-16-71	Various railroads unable to transport traffic over their lines because of work stoppage by certain of their operating employees.	7-31-71
59	7-31-71	do.	8-15-71
59-A	8-3-71	do.	8-3-71
60	8-13-71	Canadian National Railways unable to effect delivery of traffic to the Duluth, Winnipeg and Pacific Railway Co. at its Duluth interchange account of bridge wash-out at Milepost 17.3, Taft Sub-Division, Duluth, Winnipeg & Pacific Railway, Duluth, Minn.	9-15-71
60-A	8-16-71	do.	8-16-71
61	8-30-71	New York, Susquehanna & Western Railroad Co. unable to transport traffic over its line between Butler, N.J., and Oak Ridge, N.J., because of floods and track damage.	9-24-71
61	9-24-71	do.	10-31-71
61	10-31-71	do.	12-31-71
61	12-31-71	do.	3-31-72
61	3-31-72	do.	6-30-72
61	6-30-72	do.	12-31-72

See footnote at end of table.

TABLE 12.—Service orders, rerouting orders, and embargoes (fiscal year 1972)—Continued

Service order numbers	Date effective	Purpose	Date of expiration	Date vacated
62	11- 2-71	Chesapeake and Ohio Railway Co. unable to transport traffic over its car ferries between its eastern car ferry terminal at Ludington, Mich., and its western car ferry terminals at Kewaunee, Manitowoc, and Milwaukee, Wis., because of its inability to obtain adequate supplies of coal as a result of prolonged work stoppages at bituminous coal mines,	12-15-71	
62-A	12- 7-71 -----do.			12- 7-71
63	11-15-71	Louisville & Nashville Railroad Co. and the Birmingham Southern Railroad Co. are unable to transport certain carload traffic, loaded to excessive dimensions, over their lines in the vicinity of Bessemer, Ala., due to restricted clearances at their normal interchange points.	12-13-71	
63	12-31-71 -----do.		4-30-72	
63	4-30-72 -----do.		8-31-72	
64	1-13-72	Baltimore & Ohio Railroad unable to transport certain carload traffic loaded to widths in excess of 11 ft. 6 in. or to heights in excess of 16 ft. 6 in. above top of rail and routed over its line between Parkersburg, W. Va., and Belpre, Ohio, because of restricted clearances.	7-31-72	
65	2-25-72	Illinois Central Railroad Co. unable to transport traffic over its line to and from Helena, Ark., because of bridge damage.	3-31-72	
65	3-31-72 -----do.		5-31-72	
65	5-31-72 -----do.		12-31-72	
66	3- 7-72	Missouri Pacific Railroad Co. unable to transport traffic over its line between Pauline, Nebr., and Hastings, Nebr., because of bridge damage.	3-31-72	
67	4- 1-72	Central Railroad Co. of New Jersey, Robert D. Timpany, trustee, is unable to transport traffic over its lines in Pennsylvania because of a cessation of operations ordered by the Federal District Court in Newark, N.J.	5-30-72	

Supplement:

67	4- 1-72	Permit interchange to connections at any junction, wherever located, as will best facilitate the flow of traffic.	5-30-72
68	5-30-72	Central Railroad Co. of New Jersey, Robert Timpany, trustee, (CNJ) is unable to transport traffic over its lines in Pennsylvania because of a cessation of operations ordered by the U.S. District Court for the District of New Jersey, Hon. Anthony T. Augelli in Newark, N.J. In the meantime, the Commission, by order dated May 26, 1972, authorized the Lehigh Valley Railroad Co., John F. Nash and Robert C. Haldeman, trustees, (LV) permanently to operate over the lines in Pennsylvania formerly operated by CNJ, but its order has not yet become effective.	7- 3-72
69	6-13-72	Chicago, Milwaukee, St. Paul & Pacific Railroad Co. unable to transport traffic over its line between Delmar, Ill., and Joliet, Ill., because of bridge damage.	6-23-72
70	6-21-72	Wellsville, Addison & Galeton Railroad Corp. unable to transport traffic over its line between Welsville, N.Y., and Galeton, Pa., because of flooding and track damage.	7-21-72
71	6-24-72	Railroads operating in the states of Virginia, Maryland, Delaware, Pennsylvania, New Jersey, and New York unable to transport traffic over their lines because of severe floods.	6-30-72
Amended 71	6-30-72	-----do.	7-15-72

*Order was in effect July 1, 1971.

Embargo directive numbers	Date issued	Commodity	Destination	Consigned or regonsigned to or intended for	Cause	Exeption	Canceled
10	7- 1-71	All traffic.	For U.S. West Coast ports for export or coast- wise movement.		Strike of Inter- national Long- shoremen's and Warehousemen's Union.	See below.	
EXCEPTIONS: 1. Military freight. 2. Freight moving on permits issued by the Chief Transportation Officer of the destination carrier.							
10 Amended	10-13-71	Embargo amended to eliminate all West Coast Ports except Los Angeles and Long Beach, Calif.					10-15-71
11	8-31-71	All grain and grain products includ- ing soybeans, soybean meal, flaxseed, and flaxseed meal.	Duluth, Minn.	General Mills Elevator "A."	Accumulation and car delay	None.	9- 9-71
12	10-13-71	All export. Portland, Oreg., and all Ports in the State of Washington.		All consignees.	Prevent accumula- tion.	See below.	
EXCEPTION: Freight on permits issued by Chief Transportation Officer of destination roadhaul carrier.							
12 Amended	10-15-71	Embargo amended to include Astoria, Oreg.					11-16-71

TABLE 13.—Enforcement activities: summary July 1, 1971, through June 30, 1972

	Rail	Motor	Other	Total
Field investigations:				
On hand beginning of year	240	196	7	443
Commenced during year	114	809	4	927
Concluded during year	124	813	2	939
Pending at end of year	230	192	9	431
Court proceedings:				
On hand beginning of year	65	455	2	522
Commenced during year	36	539	1	576
Concluded during year	¹ 36	² 606	2	644
Pending at end of year	65	388	1	454
Civil claims settlements:				
On hand beginning of year	14	239	NA	253
Commenced during year	28	457	NA	485
Concluded during year	27	410	NA	437
Pending at end of year	15	286	NA	301
Commission proceedings:				
On hand beginning of year	12	167	11	190
Commenced during year	11	107	0	118
Concluded during year	6	100	4	110
Pending at end of year	17	174	7	198

¹ Includes 27 civil claims cases.² Includes 370 civil claims cases resulting in 410 separate settlements.**TABLE 14.—Enforcement activities-cases concluded or settled and monetary sanctions imposed**

	Rail	Motor water and forwarder	Total
Cases concluded in court	9	*164	173
Amount imposed	\$46,100	\$169,800	\$215,900
Civil Claims settlements	27	410	437
Amount imposed	\$571,140	\$552,130	\$1,123,270
Total fines and forfeitures	36	522	558
Total amount imposed	\$617,240	\$721,930	\$1,339,170

*Includes 52 permanent injunction cases and 112 cases for monetary sanctions.

TABLE 15.—Certificates of convenience and necessity issued for abandonment, construction, acquisition, and operation of lines of railroad under section 1(18) of the Interstate Commerce Act, as amended

	July 1, 1970, through June 30, 1971		July 1, 1971, through June 30, 1972	
	Applications	Miles	Applications	Miles
I. Abandonment applica- tions filed	241	3,142.3	273	3,978.4
Certificates of abandon- ment:				
Granted	129	1,286.6	268	3,457.7
Denied	3	29.5	3	47.9
Dismissed	6	20.6	10	263.0
Abandonments permit- ted since effective date of act	—	59,874.0	—	63,331.7
II. Construction applica- tions filed	13	669.5	10	41.9
Granted	12	616.9	10	22.7
Denied	—	—	—	—
Dismissed	—	—	—	—
III. Acquisition and opera- tions applications filed	12	186.2	16	369.8
Granted	13	152.7	9	192.0
Denied	—	—	—	—
Dismissed	—	—	2	147.3

APPENDIX C—PUBLICATIONS

FINANCIAL AND TRAFFIC STATISTICS ¹

Annual

*Transport Statistics in the United States. Detailed data on traffic, operations, equipment, finances, and employment for carriers subject to the Interstate Commerce Act (rail carriers, motor carriers, water carriers, pipelines, freight forwarders, REA Express, Inc., and private car owners). Available by releases: Rail, first release, \$2.25, second release, \$2.00; motor, first release, \$0.60, second release, \$1.25, and third release, \$0.50; water carriers, \$0.50, pipelines, \$0.45, freight forwarders, \$0.25; private car lines, \$0.25; REA Express, Inc., and electric railways included with first release rail.

*Freight Commodity Statistics, Class I Railroads in the United States. Carloads and tons of revenue freight originated, terminated, and received from connecting carriers, and gross freight revenue, \$0.50.

*Motor Carrier Freight Commodity Statistics, Class I Common and Contract Carriers of Property. Number of truckloads and tons of freight originated, terminated, and delivered to connecting carriers, and gross freight revenue, \$1.00.

Selected Statistics of Class III Motor Carriers of Property.

A-300—Wage Statistics of Class I Railroads in the United States—Calendar Year. Number of employees, service hours and compensation by occupation: Professional, clerical, and general; maintenance of way and structures; maintenance of equipment and stores; etc.

Quarterly

Quarterly Freight Loss and Damage Claims. Statistical facts relative to losses sustained by the motor carrier industry from theft of goods in transit.

Semiannual

(First issue: Cumulative data for period, January-June; Second issue: Cumulative data for period, January-December) ²

*Indicates publications obtained from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402, at prices indicated. (Subject to change.) Other publications obtained from the Section of Administrative Services, Interstate Commerce Commission, Washington, D.C. 20423, without charge.

¹ Prepared by the Bureau of Accounts.

² Except No. 300: the first issue is for the month of June, and the second issue is for the month of December.

- 100—Financial and Operating Statistics of Class I Railroads in the United States. Operating revenues and expenses; selected income and balance sheet items; selected traffic, service and equipment statistics.
- 300—Wag Statistics of Class I Railroads in the United States. Number of employees, service hours, and compensation by occupation.

Publications

- 600—Transportation Revenue and Traffic of Large Pipeline Companies. Transportation revenue and number of barrels of oil originated and received from connections, present and preceding year.
- 650—Revenue and Traffic of Class A and B Water Carriers. Freight revenue, number of tons of revenue freight carried, revenue ton-miles, passenger revenue, and number of passengers carried.
- 750—Revenues, Expenses, Other Income, and Statistics of Class I Motor Carriers of Passengers. Passenger operating revenues (intercity, local and suburban, charter or special service), expenses, other income, miles of highway over which intercity regular route operations conducted, vehicle-miles operated by buses in intercity, local and suburban, charter or special service, number of revenue passengers carried by buses for each route operation, man-hours paid for, and compensation of drivers.
- 800—Revenues, Expenses, Other Income, and Statistics of Class I Motor Carriers of Property. Operating revenue (intercity, common and contract, local cartage, intercity transportation for other class I and class II motor carriers), expenses, other income, deductions and income taxes, truck- and tractor-miles operated in intercity freight service by common and contract carriers, tons of revenue freight transported in intercity service, operating ratio, report of manhours paid for, and compensation of drivers and helpers.
- 950—Revenues, Expenses, and Statistics of Freight Forwarders. Operating revenues, expenses, income items, net income, tons of freight received from shippers, and number of shipments received from shippers.

Monthly

- M-350—Report of Railroad Employment, Class I Line-Haul Railroads. Number of employees at middle of month, group totals.

Transport Economics ³

Transport Economics. Recurring and special analyses of traffic, operations, equipment, finances, and employment of transportation industries, and related subjects. Issued monthly.

³ Prepared by Bureau of Economics. Upon request to the Bureau, copies may be obtained free of charge until supply is exhausted.

APPENDIX D—APPROPRIATIONS AND EMPLOYMENT

The following statement shows average employment and total appropriations for the fiscal years 1946 to 1973 for activities included under the current appropriation title "Salaries and Expenses"

Year	Appropriation	Average employment	Year	Appropriation	Average employment
1946	\$8,733,738	2,058.3	1960	\$19,650,000	2,343.6
1947	10,496,200	2,240.4	1961	21,451,500	2,386.1
1948	10,713,000	2,247.7	1962	22,075,000	2,399.7
1949	11,300,317	2,217.8	1963	23,502,800	2,412.8
1950	11,416,700	2,161.0	1964	24,670,000	2,407.8
1951	11,408,200	2,072.3	1965	26,715,000	2,399.1
1952	11,264,035	1,889.5	1966	27,540,000	2,375.8
1953	11,003,500	1,849.4	1967	¹ 27,169,000	² 1,928.9
1954	11,284,000	1,837.9	1968	23,846,000	1,899.0
1955	11,679,655	1,859.1	1969	24,664,000	1,808.1
1956	12,896,000	1,902.2	1970	27,742,660	1,801.9
1957	14,879,696	2,090.1	1971	28,442,000	1,730.7
1958	17,412,375	2,237.8	1972	30,640,000	1,676.2
1959	18,747,800	2,268.1	1973	33,120,000	³ 1,750.0

¹ Excludes \$1,310,000 transferred to the Department of Transportation (Public Law 89-670) approved October 15, 1966, and determination order of the Director of the Office of Management and Budget which authorized transfer of funds as of April 1, 1967.

² Excludes average employment for those functions transferred to the Department of Transportation effective April 1, 1967.

³ Estimated.

STATEMENT OF APPROPRIATIONS AND OBLIGATIONS FOR THE FISCAL YEAR ENDED JUNE 30, 1972

Salaries and Expenses

An Act (Public Law 92-74, approved August 10, 1971) making appropriations for the Department of Transportation and related agencies for the fiscal year ending June 30, 1972, and for other purposes included the following:

Salaries and expenses: For necessary expenses of the Interstate Commerce Commission including services as authorized by 5 U.S.C. 3109, \$30,640,000 of which \$150,000 shall be available for valuation of pipelines: Provided, that Joint Board Members and cooperating State commissioners may use Government Transportation requests when traveling in connection with their duties as such.

Status of Fiscal Year 1972 salaries and expenses account as of June 30, 1972:

Total appropriation-----	\$30, 640, 000
Total obligations-----	30, 635, 972

Unobligated balance-----	\$ 4, 028
--------------------------	-----------

Payment of Loan Guaranties

An Act (Public Law 92-256 approved March 21, 1972) making certain urgent supplemental appropriations for the Fiscal Year 1972, and for other purposes included the following:

Payment of loan guaranties: For payments required to be made as a consequence of loan guaranties made by the Interstate Commerce Commission under Section 503 of the Interstate Commerce Act, as amended (49 U.S.C. 1233), \$28,000,000, together with such amounts as may be necessary to pay interest thereon.

Status of Fiscal Year 1972 loan guaranty account as of June 30, 1972:

Appropriation:

Principal -----	\$28,000,000
Interest -----	1,329,611
<hr/>	
Total -----	29,329,611
Total obligations -----	29,329,611
<hr/>	
Unobligated balance -----	0

Payments were made to cover outstanding amounts defaulted by the Reading Co.

Fees and Charges

Status of receipt accounts as of June 30, 1972:

Registration and filing fees -----	\$ 2,361,522
Charges for administrative services -----	17,176
<hr/>	
Total receipts from fees and charges -----	\$ 2,378,698

APPENDIX E—CARRIER FINANCIAL AND STATISTICAL DATA

TABLE 1.—Carriers reporting to the commission

	Number
Carriers subject to Uniform Systems of Accounts and required to file annual and periodic reports as of June 30, 1972.	
Carriers:	
Railroads, class I	70
Railroads, class II	272
Railroad switching and terminal companies, class I	29
Railroad switching and terminal companies, class II	145
Railroad lessor companies ¹	139
Motor carriers, class I passenger ²	105
Motor carriers, class I property	1,771
Motor carriers, class II property	2,202
Oil pipelines	104
Water carriers	81
Maritime carriers	17
Electric railways	8
Freight forwarders	84
Protective service companies	6
Express companies	1
Stockyard companies ³	28
Holding companies (rail)	6
Holding companies (water)	2
Total	5,070
Carriers and organizations filing annual reports but not subject to prescribed Uniform Systems of Accounts as of June 30, 1972.	
Carriers and organizations:	
Car lines (companies which furnish cars for use on lines of railroads)	133
Classes II and III motor carriers of passengers	928
Class III motor carriers of property	11,165
Water carriers (less than \$100,000 gross revenue)	109
Freight forwarders (less than \$100,000 gross revenue)	20
Holding companies (motor)	51
Street electric lines	1
Rate bureaus and organizations	104
Total	12,511
Grand total	17,581

¹ Includes 119 lessors to class I railroads and 20 lessors to class II railroads.

² Includes six combination (property and passenger) carriers.

³ Includes 12 stockyard company lessors.

TABLE 2.—Recapitulation of preliminary 1971 operating revenues, net investment and taxes for carriers shown

[Dollars in thousands]

Kind of carrier	Number of carriers represented ¹	Operating revenues	Net investment ²	Taxes	
				Income taxes on ordinary income ³	All other taxes
Railroads—class I line haul	71	\$12,790,311	\$27,818,041	\$107,681	\$992,523
Motor carriers of property—class I intercity	1,398	13,167,811	2,867,962	290,960	754,274
Motor carriers of passengers—class I intercity	72	758,333	435,171	38,498	51,852
Water carriers by inland and coastal waterways—class A and class B	74	393,082	314,211	14,965	5,066
Pipelines	99	1,249,299	4,016,132	134,958	85,276
REA Express, Inc.	1	263,405	9,524	1,555	20,514
Total	1,715	28,622,241	35,461,041	588,617	1,909,505
Percentage distribution					
Railroads—class I line haul	4.2	44.7	78.5	18.3	52.0
Motor carriers of property—class I intercity	81.5	46.0	8.1	49.4	39.5
Motor carriers of passengers—class I intercity	4.2	2.6	1.2	6.6	2.7
Water carriers by inland and coastal waterways—class A and class B	4.3	1.4	.9	2.5	.3
Pipelines	5.8	4.4	11.3	22.9	4.4
REA Express, Inc.	.0	.9	.0	.3	1.1
Total	100.0	100.0	100.0	100.0	100.0

¹ Carriers for which preliminary financial and statistical data were available.

² Net investment in carrier transportation or operating property and equipment plus working capital as of December 31, 1971.

³ Railroads, pipelines, and REA Express, Inc., Federal income taxes only, all other carriers include Federal and State income taxes.

TABLE 3.—Intercity ton miles, public and private, by mode of transportation, 1970 and 1971*

Mode of transportation	1971 (millions)	1970 (millions)	Percent change	Percent of grand total	
				1971	1970
1. Railroads and electric railways, including express and mail	746,000	771,168	-3.3	38.64	39.83
2. Motor vehicles	430,000	412,000	4.4	22.28	21.28
3. Inland waterways including Great Lakes	307,000	318,560	-3.6	15.90	16.46
4. Pipelines (oil)	444,000	431,000	3.0	23.00	22.26
5. Airways (domestic revenue service) including express, mail, and excess baggage	3,400	3,295	3.2	.18	.17
Grand total*	1,930,400	1,936,023	-.3	100.00	100.00

*Data for 1971 are preliminary.

Sources (numbers below same as items in table):

1. Reports to the Interstate Commerce Commission (ICC).

2. Based on data obtained from the Federal Highway Administration, Department of Transportation.

3. Reported by the Corps of Engineers, Department of the Army. Only ton miles in domestic waters are included.

4. Estimated by using reports to the ICC.

5. Based on statistics obtained from the Civil Aeronautics Board.

TABLE 4.—Federally regulated and total intercity ton miles, 1970, by mode of transportation

Mode of transportation	Federally regulated		Not federally regulated		Total	
	Ton miles (billions)	Percent	Ton miles (billions)	Percent	Ton miles (billions)	Percent
Rail	771.2	100.0	0	0	771.2	100
Motor	167.0	40.5	245.0	59.5	412.0	100
Water ¹	41.1	6.9	555.1	93.1	596.2	100
Oil pipeline	366.8	85.1	64.2	14.9	431.0	100
Air ²	3.3	100.0	0	0	3.3	100
Total	1,349.4	61.0	864.3	39.0	2,213.7	100

¹ Federally regulated ton miles include only regulated traffic carried by regulated water carriers. All exempt traffic is excluded. The separation was made from data supplied by the Corps of Engineers, Department of the Army. The total water carrier data include deep sea, coastwise and intercoastal service.

² Air ton mile data are supplied by the Civil Aeronautics Board.

TABLE 5.—Class I line-haul railroads and their lessor subsidiaries shareholders' equity, long-term debt and dividends

[Dollars in thousands]

Item	1969	1970	1971 ¹
1. Shareholders' equity:			
a. Capital stock	\$6,386,492	\$6,136,127	\$6,193,919
b. Capital surplus	2,208,616	2,636,467	3,030,398
c. Retained income	10,680,360	10,252,214	9,195,691
d. Total equity	19,275,468	19,024,808	18,420,008
2. Long-term debt	10,825,238	11,055,589	11,184,761
3. Total equity and debt	30,100,706	30,080,397	29,604,769
4. Ratio of debt to equity (percent)	35.96	36.75	37.78
5. Amount of dividends: ²			
a. Cash	513,595	417,081	789,778
b. Stock	503	522	2,435

¹ Preliminary.

² Includes figures for lessors and operating railroads without excluding duplications on account of intercorporate payments.

TABLE 6. ¹—Class I line-haul railroads condensed income statement, financial ratios and employee data

[Dollars in thousands]

Item	1969	1970	1971 ²
1. Number of carriers represented	73	73	71
CONDENSED INCOME STATEMENT			
2. Operating revenues:			
a. Freight	\$10,346,258	\$10,921,813	\$11,786,431
b. Passenger	438,667	420,452	380,326
c. Total operating revenues	11,450,325	11,991,658	12,790,311
3. Total operating expenses	9,066,529	9,659,982	10,234,784
4. Railway tax accruals ³	1,029,067	1,068,518	1,100,204
5. Rent income and rents payable—Net	—700,059	—777,304	—852,172
6. Net railway operating income	654,670	485,854	603,152
7. Ordinary income	514,238	226,583	294,542
8. Extraordinary and prior period items—Net ⁴	—50,673	—150,404	686,131
9. Net income	463,565	76,179	—391,589
NET INVESTMENT AND EQUITY			
10. Net investment in transportation property and equipment plus working capital	\$27,506,704	\$27,814,560	\$27,818,041
11. Shareholders' equity	17,768,768	17,323,342	16,715,752
FINANCIAL RATIOS (PERCENT)			
12. Operating ratio (L. 3÷L. 2)	79.18	80.56	80.02
13. Return on net investment: (L. 6÷L. 10)	2.38	1.75	2.17
14. Return on equity			
a. Ordinary income basis (L. 7÷L. 11)	2.89	1.31	1.76
b. Net income basis (L. 9÷L. 11)	2.61	.44	—
EMPLOYEE DATA			
15. Average number	578,277	566,282	544,497
16. Compensation			
a. Total	\$5,362,754	\$5,556,734	\$5,895,123
b. Per hour paid for	3.793	4.030	4.359

¹ Condensed from tables 6, 7, 8, and 11 in 85th Annual Report to Congress.

² Preliminary.

³ Includes payroll taxes and all other taxes, except Federal income taxes on extraordinary and prior period items. Federal income taxes on ordinary income included for 1969, 1970, and 1971 are \$106,191; \$88,349; and \$107,681 (thousands).

⁴ Includes Federal income taxes on extraordinary and prior period items.

TABLE 7.¹—Class I line-haul railroads current assets and current liabilities as of December 31, 1970, and 1971

[Dollars in thousands]

	1970 amount	1971 amount	Percent of change
Total current assets	\$3,573,673	\$3,653,424	+2.2
Cash and temporary cash investments	1,158,865	1,215,861	+4.9
Materials and supplies	550,474	555,715	+1.0
Total current liabilities	2,912,875	3,019,423	+3.7
Net working capital:			
Including materials and supplies	660,798	634,001	-4.1
Excluding materials and supplies	-110,324	78,286	—
Ratios:			
Current assets to current liabilities:			
Including materials and supplies	1.23	1.21	
Excluding materials and supplies	1.04	1.03	
Cash and temporary cash investments to current liabilities	.40	.40	

¹ Renumbered table 9 in 85th Annual Report to Congress.

TABLE 8.¹—Refrigerator car lines owned or controlled by railroads condensed income statement, financial ratios and employee data

[Dollars in thousands]

Item	1969	1970	1971 ²
1. Number of companies represented	8	7	7
CONDENSED INCOME STATEMENT			
2. Operating revenues	\$189,726	\$196,957	\$192,177
3. Operating expenses	121,804	127,722	128,870
4. Income taxes	4,701	4,325	743
5. Car line operating income	25,683	22,757	17,150
6. Ordinary income	14,387	11,411	4,053
7. Extraordinary and prior period items— net ³	—	-150	-1,717
8. Net income	14,387	11,261	2,336
NET INVESTMENT AND EQUITY			
9. Net investment in cars and protective service property plus working capital	424,245	434,013	438,962
10. Shareholders' equity	251,232	258,579	258,377
FINANCIAL RATIOS (PERCENT)			
11. Operating ratio (L. 3÷L. 2)	64.20	64.85	67.06
12. Return on net investment (L. 5÷L. 9)	6.05	5.24	3.91
13. Return on equity (L. 8÷L. 10)	5.73	4.35	.90
EMPLOYEE DATA			
14. Average number	5,372	5,218	5,049
15. Compensation	\$44,788	\$50,140	\$49,158

¹ Combined from tables 12 and 13 in 85th Annual Report to Congress.

² Preliminary.

³ Includes Federal income taxes on extraordinary and prior period items.

TABLE 9.¹—Nonrailroad controlled private carowners,² revenues and selected statistics

[Dollars and miles in thousands]

ITEM	1969	1970	1971 ³
1. Revenue	\$561,938	\$593,591	\$587,851
2. Miles made by owned cars	4,986,407	4,969,216	4,828,053
3. Cars owned at close of year:			
a. Refrigerator	13,748	13,031	11,662
b. Petroleum tank	80,908	79,373	76,014
c. Other tank	80,717	76,348	74,548
d. Other cars	174,881	181,255	176,899
e. Total	350,254	350,007	339,123

¹ Renumbered table 14 in 85th Annual Report to Congress.

² Confined to owners of 10 or more cars. Does not include railroad owned or controlled car lines.

³ Preliminary.

TABLE 10.¹—Class I intercity motor carriers of property condensed income statement, financial ratios and employee data

[Dollars in Thousands]

Item	1969	1970	1971 ²
1. Number of carriers represented	1,311	1,376	1,398
CONDENSED INCOME STATEMENT			
2. Operating revenues:			
a. Freight-intercity-common carrier	\$9,801,301	\$10,147,205	\$12,004,245
b. Freight-intercity-contract carrier	338,085	332,118	391,320
c. Freight-local cartage	459,092	457,788	513,526
d. Intercity transportation for other class I and class II motor carriers	80,722	91,558	120,097
e. Other operating revenue	90,541	108,294	138,623
f. Total operating revenues	10,769,741	11,136,963	13,167,811
3. Operating expenses	10,336,847	10,762,685	12,378,474
4. Lease of distinct operating unit—net	—2,184	—1,657	—18,589
5. Net carrier operating income	430,710	372,621	770,748
6. Other income and miscellaneous deductions from income—net	—81,719	—97,392	—67,753
7. Income taxes on ordinary income ³	152,130	135,424	290,960
8. Ordinary income	196,861	139,805	412,035
9. Extraordinary and prior period items—net ⁴	2,847	10,379	3,553
10. Net income	199,708	150,184	415,588
NET INVESTMENT AND EQUITY			
11. Net investment in carrier operating property and equipment, plus working capital	2,499,310	2,634,816	2,867,962
12. Shareholders' and proprietors' equity	2,031,419	2,243,728	2,571,582
FINANCIAL RATIOS (PERCENT)			
13. Operating ratio (L. 3÷L. 2f)	95.98	96.64	94.01
14. Return on net investment (L. 5—L. 7÷L. 11)	11.15	9.00	16.73
15. Return on equity (L. 10÷L. 12)	9.83	6.69	16.16
EMPLOYEE DATA			
17. Average number	510,182	500,445	509,860
18. Compensation	\$4,761,662	\$4,913,899	\$5,682,197

¹ Combined from tables 15, 16, and 17 as shown in 85th Annual Report to Congress.

² Preliminary.

³ Does not include income taxes applicable to sole proprietorships, partnerships, and corporations that have elected to be taxed under section 1372(a) of the Internal Revenue Code, also does not include income taxes on extraordinary and prior period items.

⁴ Includes income taxes on extraordinary and prior period items.

TABLE 11.¹—Class I intercity motor carriers of passengers condensed income statement, financial ratios and employee data

[Dollars in thousands]

Item	1969	1970	1971 ²
1. Number of carriers represented	70	71	72
CONDENSED INCOME STATEMENT			
2. Operating revenues:			
a. Passenger intercity schedules	\$483,158	\$510,933	\$540,104
b. Local and suburban schedules	13,071	13,299	12,634
c. Charter or special service	75,432	79,909	85,459
d. Other operating revenues	105,365	117,595	120,136
e. Total operating revenues	677,026	721,736	758,333
3. Operating expenses	593,937	638,992	683,243
4. Lease of carrier property—net	—149	—17	17,948
5. Net carrier operating income	82,940	82,727	93,038
6. Other income and income deductions—net	12,826	5,262	10,410
7. Income taxes on ordinary income ³	39,376	35,919	38,498
8. Ordinary income	56,391	52,070	64,950
9. Extraordinary and prior period items—net ⁴	—	9	33
10. Net income	56,391	52,079	64,983
NET INVESTMENT AND EQUITY			
11. Net investment in carrier operating property and equipment, plus working capital	454,141	450,790	435,171
12. Shareholders' and proprietors' equity	371,744	388,413	410,646
FINANCIAL RATIOS (PERCENT)			
13. Operating ratio (L. 3÷L. 2e)	87.73	88.54	90.10
14. Return on net investment (L. 5—L. 7÷L. 11)	9.59	10.38	12.53
15. Return on equity (L. 10÷L. 12)	15.17	13.41	15.82
EMPLOYEE DATA			
16. Average number	33,628	34,383	34,647
17. Compensation	\$293,383	\$316,705	\$333,541

¹ Combined from tables 18, 19 and 20 in 85th Annual Report to Congress.

² Preliminary.

³ Does not include income taxes applicable to sole proprietorships, partnerships, and corporations that have elected to be taxed under sec. 1372(a) of the Internal Revenue Code. Also does not include income taxes on extraordinary and prior period items.

⁴ Includes income taxes on extraordinary and prior period items.

TABLE 12.¹—Classes A and B water carriers by inland and coastal waterways, condensed income statement, financial ratios, and employee data

[Dollars in thousands]

Item	1969	1970	1971 ²
1. Number of carriers represented	90	82	74
CONDENSED INCOME STATEMENT			
2. Waterline operating revenues:			
a. Line service—Freight	\$241,662	\$276,619	\$302,730
b. Line service—Passenger	9,708	10,739	13,163
c. Line service—Other	11,374	13,448	12,332
d. Other operating revenue	4,233	5,359	3,042
e. Revenue from terminal operations	26,698	24,675	28,808
f. Rent and motor carrier revenue	33,782	40,997	33,007
g. Total waterline operating revenues	327,457	371,837	393,082
3. Waterline operating expenses	295,256	329,116	347,002
4. Net revenue from waterline operations	32,201	42,721	46,080
5. Income taxes on ordinary income ³	9,440	15,543	14,965
6. Ordinary income	21,469	27,019	28,053
7. Extraordinary and prior period items—Net ⁴	411	782	—649
8. Net income	21,880	27,801	27,404
9. Net investment in transportation property plus working capital	279,970	271,118	314,211
10. Shareholders' equity	245,206	266,075	284,426
FINANCIAL RATIOS (PERCENT)			
11. Operating ratio (L. 3÷L. 2g)	90.17	88.51	88.28
12. Return on net investment (L. 4—L. 5÷L. 9)	8.13	10.02	9.90
13. Return on equity (L. 8÷L. 10)	8.92	10.45	9.63
EMPLOYEE DATA			
14. Average number	8,664	8,324	8,364
15. Compensation	\$77,776	\$79,639	\$85,535

¹ Combined from tables 21, 22, and 23 in 85th Annual Report to Congress.

² Preliminary.

³ Does not include income taxes on extraordinary and prior period items.

⁴ Includes income taxes on extraordinary and prior period items.

TABLE 13.¹—Maritime carriers condensed income statement, financial ratios and employee data

[Dollars in thousands]

Item	1969	1970	1971 ²
1. Number of carriers represented	17	18	17
CONDENSED INCOME STATEMENT			
2. Waterline operating revenues:			
a. Coastwise and intercoastal service	\$83,818	\$89,019	\$81,916
b. Charter revenue	55,759	54,080	60,866
c. Total vessel operating	670,292	766,088	680,718
d. Total waterline operating revenues	739,325	832,690	748,076
3. Total waterline operating expenses	678,038	800,039	727,597
4. Gross profit from shipping operations	61,287	32,651	20,479
5. Federal income taxes on ordinary income ³	18,722	-235	-7,730
6. Ordinary income	75,096	14,743	10,682
7. Extraordinary and prior period items—Net ⁴	5,456	6,853	-1,427
8. Net income	80,552	21,596	9,255
9. Net investment in transportation property and equipment plus working capital	517,384	614,955	657,336
10. Shareholders' equity	426,251	430,517	473,271
FINANCIAL RATIOS (PERCENT)			
11. Operating ratio (L. 3÷L. 2d)	91.71	96.08	97.26
12. Return on net investment (L. 4—L. 5÷L. 9)	8.23	5.35	4.29
13. Return on equity (L. 8÷ L. 10)	18.90	5.02	1.96
EMPLOYEE DATA			
14. Average number	13,719	14,848	10,400
15. Compensation	\$124,469	\$156,273	\$123,792

¹ Combined from Tables 24, 25 and 26 in 85th Annual Report to Congress.

² Preliminary.

³ Does not include Federal income taxes on extraordinary and prior period items.

⁴ Includes Federal income taxes on extraordinary and prior period items.

TABLE 14. ¹—Class A freight forwarders condensed income statement, financial ratios and employee data

[Dollars in thousands]

Item	1969	1970	1971 ²
1. Number of forwarders represented	65	65	73
CONDENSED INCOME STATEMENT			
2. Operating revenues:			
a. Transportation revenues	\$590,571	\$594,279	\$586,663
b. Transportation purchased (debit):			
1. Railroad	170,775	175,198	160,218
2. Motor	99,338	89,958	87,558
3. Water	6,218	7,132	13,667
4. Pickup, delivery, and transfer	95,228	98,959	99,666
5. Other	12,816	16,203	18,194
6. Total transportation purchased	384,375	387,450	379,303
c. Operating revenues	211,124	211,038	215,896
3. Operating expenses	193,826	207,564	200,796
4. Net revenue from forwarder operations	17,298	3,474	15,100
5. Income taxes on ordinary income ³	8,507	534	6,658
6. Ordinary income	7,018	-1,331	7,347
7. Extraordinary and prior period items—Net ⁴	8	-616	-1,285
8. Net income	7,026	-1,947	6,063
NET INVESTMENT AND EQUITY			
9. Net investment in transportation property plus working capital	36,751	32,530	38,712
10. Shareholders' equity	28,694	18,877	22,753
FINANCIAL RATIOS (PERCENT)			
11. Operating ratio (L. 3÷L. 2c)	91.81	98.35	93.01
12. Return on net investment (L. 4—L. 5÷L. 9)	23.92	9.04	21.81
13. Return on equity (L. 8÷L. 10)	24.49	—	26.64
EMPLOYEE DATA			
14. Average number	10,521	9,665	9,021
15. Compensation	\$81,368	\$82,860	\$82,808

¹ Combined from tables 27, 28, and 29 in 85th Annual Report to Congress.

² Preliminary.

³ Does not include income taxes on extraordinary and prior period items.

⁴ Includes income taxes on extraordinary and prior period items.

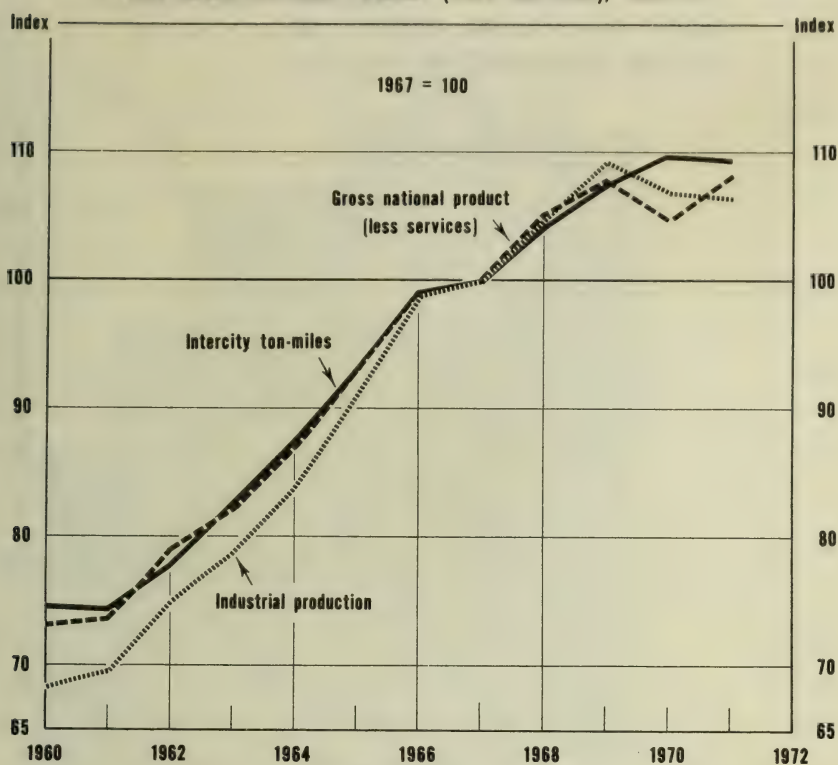
TABLE 15.¹—Pipeline companies² condensed income statement, financial ratios and employee data

[Dollars in thousands]

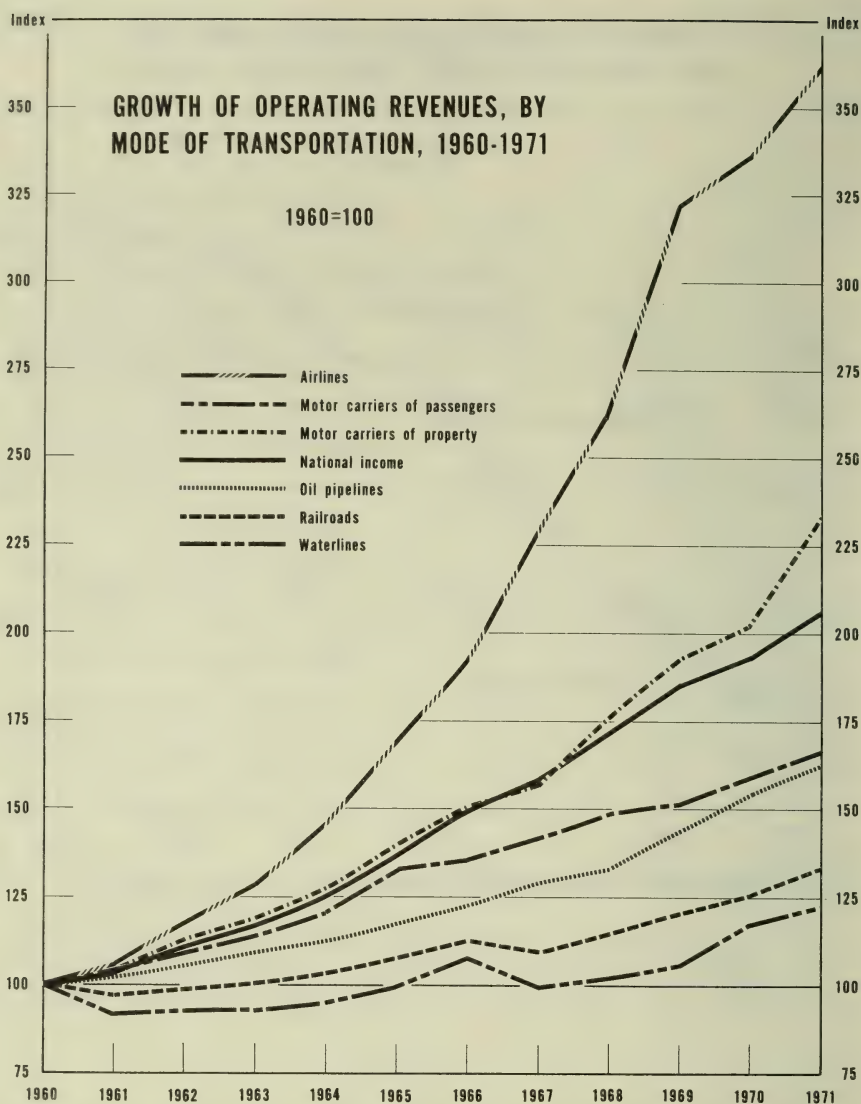
Item	1969	1970	1971 ³
1. Number of companies represented	99	101	99
CONDENSED INCOME STATEMENT			
2. Operating revenues	\$1,103,258	\$1,188,254	\$1,249,299
3. Operating expenses	642,703	672,336	712,178
4. Net carrier operating income	460,555	515,918	537,121
5. Federal income taxes on ordinary income ⁴	124,693	136,110	134,958
6. Ordinary income	264,844	304,381	322,021
7. Extraordinary and prior period items—Net ⁵	7,873	7,471	-1,331
8. Net income	272,717	311,852	320,690
NET INVESTMENT AND EQUITY			
9. Net investment in carrier property plus working capital	3,391,675	3,629,395	4,016,132
10. Shareholders' equity	1,693,139	1,826,865	1,916,667
FINANCIAL RATIOS (PERCENT)			
11. Operating ratio (L. 3÷L. 2)	58.25	56.58	57.01
12. Return on net investment (L. 4—L. 5÷L. 9)	9.90	10.46	10.01
13. Return on equity (L. 8÷L. 10)	16.11	17.07	16.73
EMPLOYEE DATA			
14. Average number	15,679	15,017	14,787
15. Compensation	\$159,362	\$162,103	\$172,039

¹ Combined from tables 30 and 31 in 85th Annual Report to Congress.² Available data included for pipeline departments of five large oil companies.³ Preliminary.⁴ Does not include Federal income taxes on extraordinary and prior period items.⁵ Includes income taxes on extraordinary and prior period items.

INDEXES OF INTERCITY TON-MILES, INDUSTRIAL PRODUCTION, AND GROSS NATIONAL PRODUCT (LESS SERVICES), 1960-1971



Sources: Federal Reserve Board, Office of Business Economics, and Interstate Commerce Commission.

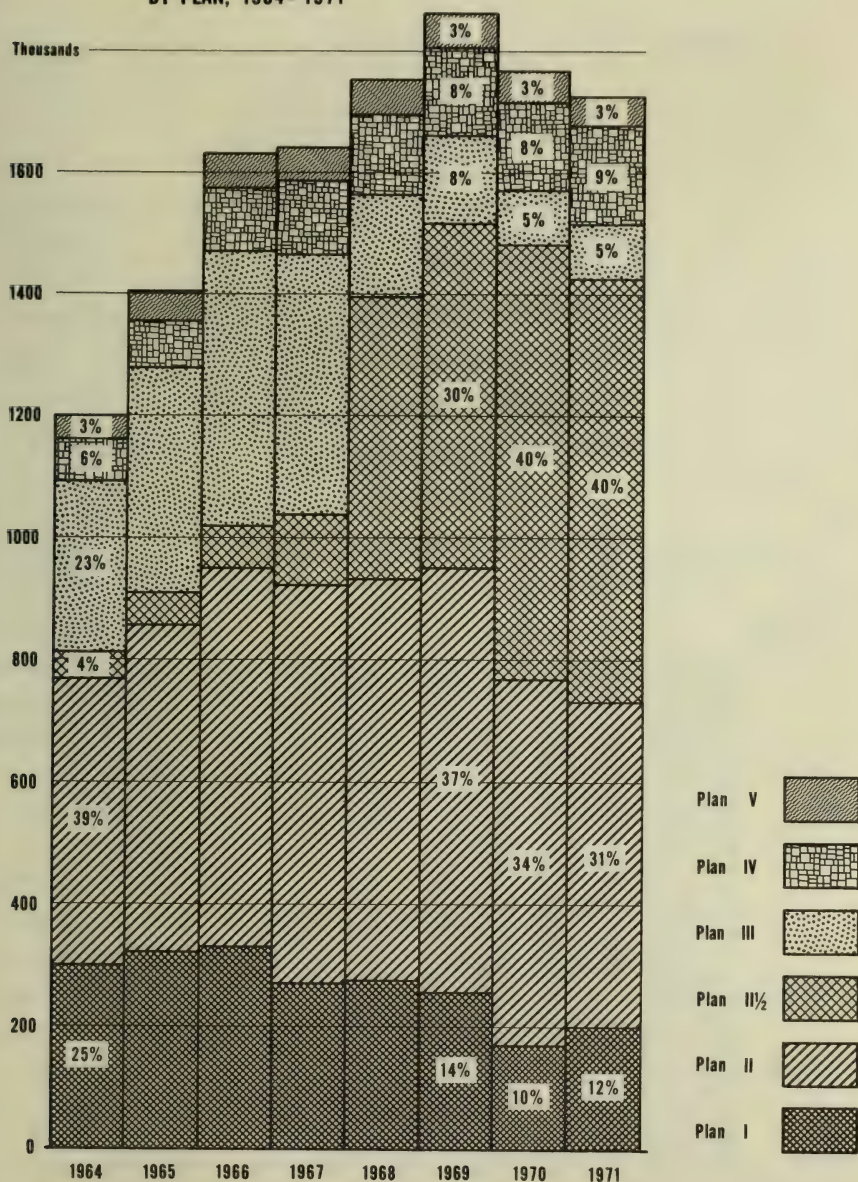


Note: Excludes Electric Railways and Railway Express which combined are less than one percent of the total 1970 revenues.

Source: Annual reports to the Interstate Commerce Commission and the Civil Aeronautics Board.

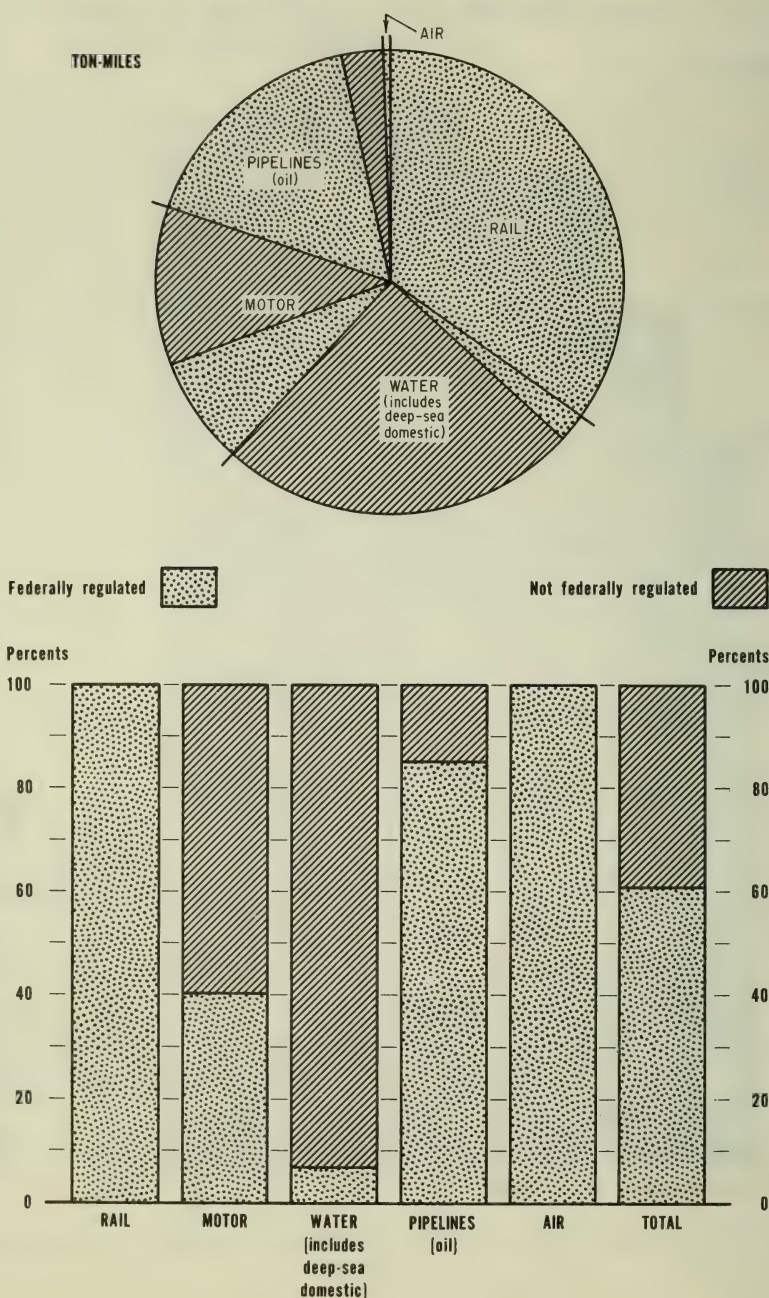
National income — Department of Commerce.

**PIGGYBACK TRAILER AND CONTAINER TERMINATIONS
REPORTED BY CLASS I RAILROADS
BY PLAN, 1964-1971**



Source: Bureau of Economics, Statement No. 66-1, Piggyback Traffic Characteristics (1966) and Transport Economics.

INTERCITY TON-MILES OF FEDERALLY REGULATED AND NOT FEDERALLY REGULATED CARRIERS, 1970



INDEX

	Page
Abandonments. <i>See</i> Rail carriers.	
Accounting:	
Publications.....	127
Statistics.....	131
Agricultural cooperatives:	
Exempt carriage.....	38
Illegal operations.....	68
Amtrak.....	12, 43, 82, 93
Association of American Railroads.....	24
Automation.....	57, 60-61, 72
Baltimore and Ohio Railroad Co.....	22
Bankruptcy Act.....	7-8, 89
Board of Suspension.....	57, 72
Boston & Maine Railroad.....	8
Brokers:	
Applications considered.....	45
Bureau of Travel Agents proposed.....	93
Unlawful operations.....	43, 68
Buses. <i>See</i> Motor carriers.	
Cadillac & Lake City Railway Co.....	8
Car shortages. <i>See</i> Rail carriers.	
Carrier coordination.....	52, 55, 58, 87
Carrier financial condition:	
Buses.....	43
Express companies.....	53
Freight forwarders.....	46
Motor carriers of property.....	29
Pipelines.....	54
Railroads.....	7
Water carriers.....	49
Central Railroad Co. of New Jersey.....	8, 22
Charter and special services. <i>See</i> Motor carriers.	
Chicago, Rock Island & Pacific Railroad Co.....	22

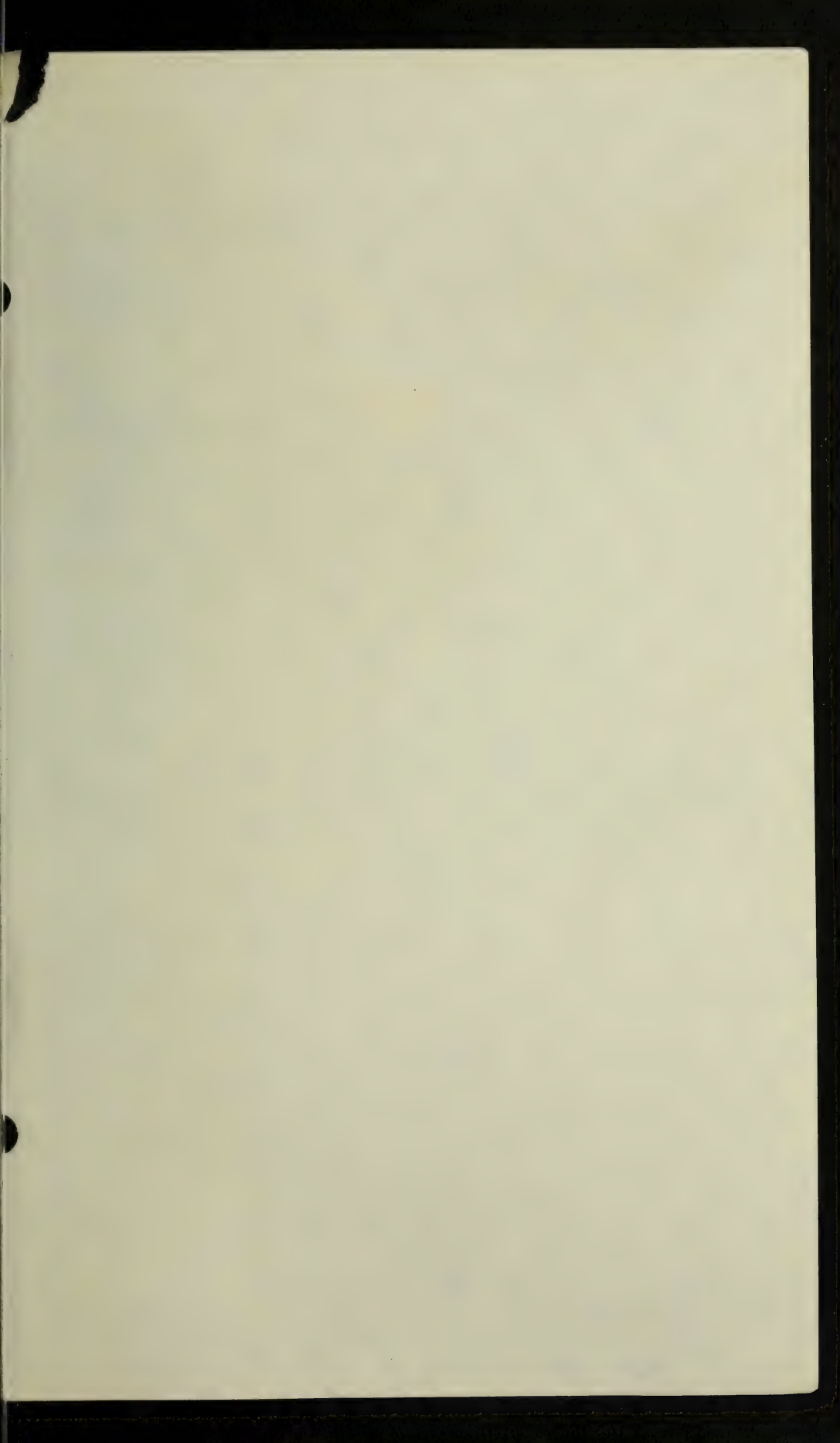
	Page
Commission:	
Administration and procedures	71
Appropriations and employment	129
Assistance provided during work stoppages	28, 73
Automation. <i>See</i> Automation.	
Budget, fiscal 1973	86
Cost reduction and management improvement	72
Evaluation program activities	72
Field activities	24, 28, 73
Legislative activities	86-98
Manpower development	74
Mobilization planning. <i>See</i> Mobilization planning.	
Organization	2, 72, 99
Paperwork and records management	73
Publications	127
Resume of activities during fiscal year 1972	1
Transportation statistics	131-142
Workload	72, 107
Conglomerates	4
Consumer protection	2, 41, 64
Containerization	51
Council on Environmental Quality	63
Court actions	80-85
Department of Justice	8, 95
Department of Transportation	17, 40, 44
Discrimination	38
Diversification: Holding company activities	4
Economic Stabilization Act of 1970	22, 79
Enforcement:	
Consumer protection regulations	64
Credit regulations	68
Financial oversight	68
Rate integrity	66
Statistics	125
Unlawful operations	67
Environmental issues:	
Abandonments of railroad lines	12, 62, 83
Completion of navigation projects	49
Discontinuance of passenger train service	15
Lighterage charges at New York Harbor	22
Transportation rates of recycled products	20, 62, 63
Erie Lackawanna Railway Co.	7-8
Exemptions	28, 38
Federal Maritime Commission	48, 50-51, 58
Federal Power Commission	63

	Page
Florida East Coast Railway Co.	25
Fourth Section Board.	57, 72
Freight forwarders:	
Financial condition.	46
Legislative proposals.	94
Proceedings.	47, 79
Ratemaking.	48, 94
Statistics.	141
Unlawful operations.	47, 68
Holding companies.	4, 9
Household goods carriers:	
Enforcement program.	3, 41, 65
Investigation proceedings.	42, 65
Rate increases.	42
Regulations instituted.	41
Illinois Central Gulf Railroad Co.	9
Intermodal operations.	52, 55
Interstate Commerce Act, cited:	
Section 1(6).	20
Section 1(14)(a).	25
Section 1(16).	88
Section 2.	22
Section 3(4).	22
Section 4.	95
Section 5(14-16).	52
Section 5a.	96
Section 6(1).	20
Section 13a.	14
Section 13a(1).	82
Section 20(5).	81
Section 20(11).	20, 92
Section 20a.	6, 69
Section 20a(2).	6
Section 20b.	7
Section 203(b)(1).	44
Section 203(b)(5).	38
Section 203(b)(6).	38, 85
Section 203(b)(7).	39
Section 203(b)(10).	39
Section 211(c).	93
Section 214.	5, 6, 69
Section 215.	54
Section 302(d).	52
Section 302(i)(3)(B).	49-52
Section 305(a).	83

	Page
Interstate Commerce Act, cited—Continued	
Section 402(a)(5).....	47, 49
Section 409(a).....	94
Interstate Commerce Commission. <i>See</i> Commission.	
Legislative activities of Commission.....	86-98
Lehigh & Hudson River Railway Co.....	8
Loan guarantees.....	8
Loss and damage claims.....	59
Mergers.....	4, 30
Mobilization planning.....	73, 113
Motor carriers:	
Buses.....	43
Charter and special services.....	43
Contract carriers.....	36
Enforcement problems.....	65
Financial condition.....	29, 43
Household goods carriers. <i>See</i> Household goods carriers.	
Loss and damage claims, investigation.....	59
Mergers.....	30
Operating authority applications. <i>See</i> Operating rights.	
Operating rights. <i>See</i> Operating rights.	
Passenger carriers.....	43, 138
Private <i>v.</i> for-hire carriage.....	39, 84
Property carriers.....	29, 137
Ratemaking.....	31, 45
Rulemaking proceedings.....	77-79
Securities applications.....	4
Statistics.....	137, 138
Unlawful operations.....	65, 67
Movers. <i>See</i> Household goods carriers.	
National Environmental Policy Act, implementation.....	62, 82
New Haven inclusion and reorganization.....	81
North Western Employees Transportation Corp.....	9
Office of Management and Budget: Management improvement program, implementation.....	72
Oil pipelines. <i>See</i> Pipelines.	
Operating rights:	
Adequacy of existing carrier service, cases considered.....	35
Cases involving household goods carriers.....	42
Cases involving safety and fitness of carriers.....	37, 40, 43
Conversion from contract to common carrier authority, case considered.....	36
Entry control discussed.....	33
Exempt operations.....	38

	Page
Operating rights:—Continued	
Interpretation of certificates of public convenience and necessity, cases considered.....	36
Motor carrier operating authority applications.....	33
Private <i>v.</i> for-hire carriage.....	39, 84
Smoking on interstate buses, case considered.....	45
Penn Central Transportation Co.....	8, 14
Piggyback.....	145
Pipelines:	
Financial condition.....	54
Statistics.....	54, 142
Price stabilization.....	79
Rail carriers:	
Abandonments.....	10, 62
Auto-Train service.....	15, 58
Car service orders.....	115-124
Car shortage.....	23
Commuter operations.....	14
Divisions of revenue actions.....	15
Enforcement program.....	64
Financial condition.....	7
Freight car shortages. <i>See</i> Car shortage.	
Freight service, investigation instituted.....	18
Guarantee of loans.....	8
Loss and damage claims, investigation.....	59
Mergers.....	9
Passenger service.....	12
Ratemaking.....	15
Reorganizations.....	8
Rulemaking proceedings.....	77
Securities applications.....	6
Statistics.....	134-135
Train discontinuance, passenger service.....	14, 82
Unlawful operations.....	65, 67
Rail Passenger Service Act of 1970.....	13, 82
Railway Express Agency.....	53, 132
Ratemaking:	
Investigation proceedings instituted concerning railroad rates.....	16, 75
Motor carrier rate actions.....	31, 45
Other railroad rate actions.....	19
Reading Co.....	8, 86
Rebates and concessions.....	66
Revenue Act of 1971.....	29-30
Rulemaking proceedings.....	76-79

	Page
Seaboard Coast Line Railroad.....	25
Section of Rates and Informal Cases.....	58
Securities.....	4
Securities and Exchange Commission.....	4
Small shipments:	
Innovative operation.....	48
Problems and situation.....	34, 38, 47, 53, 73
Rate actions.....	32
Tariffs:	
Computerization.....	57
Informal rate cases.....	58
Postal rates.....	59
Ratemaking.....	5, 31, 45
Revision of tariff circulars.....	59
Simultaneous notification to shippers.....	57
Suspensions.....	57
Tariff updating.....	56
Tariff Users Advisory Committee.....	56
Through routes and joint rates.....	32, 48, 58, 82, 87
Waste products for reuse and recycling, case considered.....	59
Unlawful operations. <i>See</i> Freight forwarders; Motor carriers; Rail carriers.	
Water carriers:	
Containerization.....	51
Financial condition.....	49
LASH operations.....	49
Legislative recommendation.....	52
Mergers.....	52
Rulemaking proceeding.....	79
Statistics.....	139, 140





385.731
Un 3
1972/73

Commerce

ICC

87th Annual Report to Congress

1973

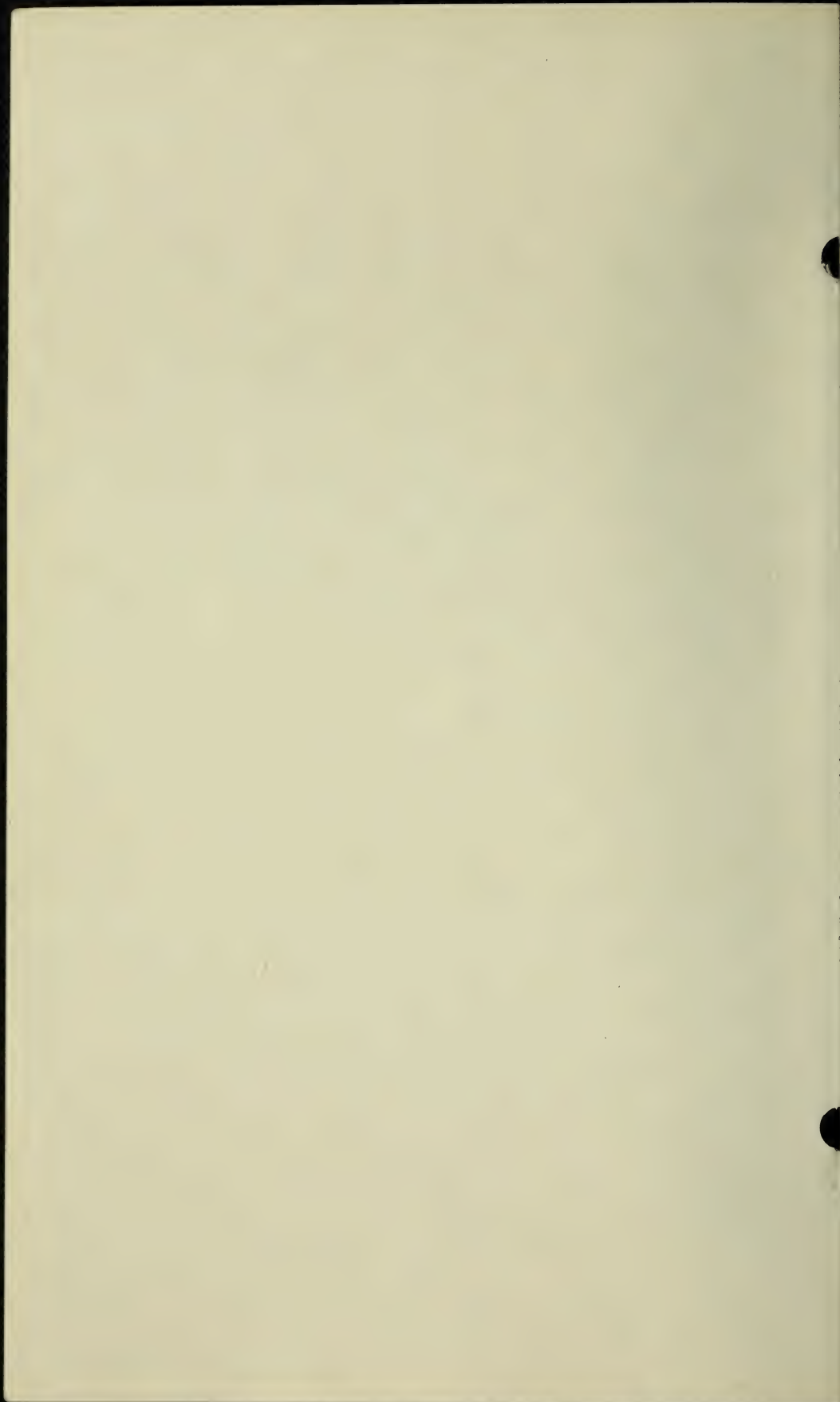
INTERSTATE COMMERCE COMMISSION

THE LIBRARY OF THE

MAR 25 1974

UNIVERSITY OF ILLINOIS
AT URBANA-CHAMPAIGN
SERIAN



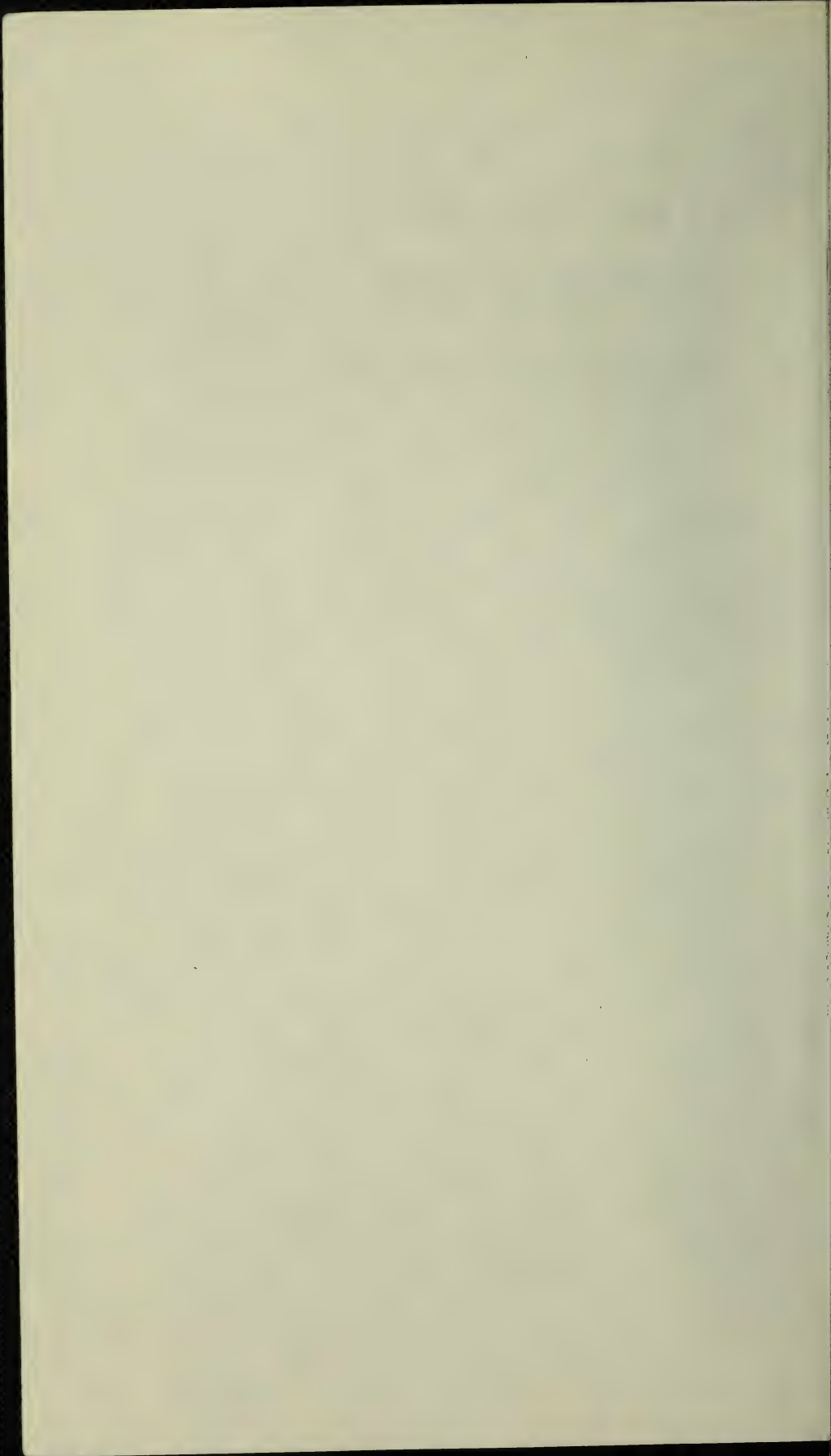


87th ANNUAL REPORT OF THE
**INTERSTATE
COMMERCE
COMMISSION**

Fiscal Year Ended June 30, 1973



For sale by the Superintendent of Documents, U.S. Government Printing Office
Washington, D.C. Price \$1.40 (paper cover)
Stock Number 2600-00940



THE COMMISSION

(As of the close of the fiscal year—June 30, 1973)

			Term Expires
			December 31
		Appointed	
George M. Stafford, <i>Chairman</i>	(R) Kans.	1967	1973
W. Donald Brewer, <i>Vice Chairman</i>	(R) Colo.	1970	1976
Kenneth H. Tuggle	(R) Ky.	1953	1975
Rupert L. Murphy	(D) Ga.	1955	1978
Virginia Mae Brown	(D) W. Va. ...	1964	1977
Willard Deason	(D) Tex.	1965	1979
Dale W. Hardin	(R) Va.	1967	1977
Robert C. Gresham	(R) Md.	1969	1974
Chester M. Wiggin, Jr.	(R) N. H.	1972	1973
Alfred T. MacFarland	(I) Tenn.	1972	1978
A. Daniel O'Neal, Jr.	(D) Wash.	1973	1979

The fiscal 1973 year opened with the composition of the Commission short by two members due to the retirements of Commissioners Laurence K. Walrath and Donald L. Jackson in June 1972, prior to completion of their terms of office. The President nominated Chester M. Wiggin, Jr. of New Hampshire to Commission membership and he was approved by the Senate. He took his oath of office on October 24, 1972, to fill the unexpired term of Commissioner Jackson. The President named Alfred T. MacFarland of Tennessee and Rodolfo Montejano of California to recess appointments. Commissioner MacFarland took his oath of office on November 1, 1972, replacing Commissioner John W. Bush whose term had expired. Commissioner Montejano took his oath of office on November 3, 1972, filling the vacancy created by Commissioner Walrath's retirement. Commissioner Montejano was replaced April 12, 1973, after the President nominated and the Senate confirmed A. Daniel O'Neal, Jr., of Washington. Commissioner MacFarland shifted from his recess appointment April 19, 1973, after nomination by the President and

approval by the Senate. Commissioner Rupert L. Murphy was reappointed to his third seven-year term and took his oath of office on October 20, 1972. Commissioner Willard Deason was named and approved for a second seven-year term, and he took his oath of office April 27, 1973. The full membership of the Commission continued until July 31, 1973, when a tragic airplane accident in Boston, Mass., claimed the life of Commissioner Wiggin.



Interstate Commerce Commissioners (left to right) MacFarland, Gresham, Deason, Murphy, Brewer (Vice Chairman), Stafford (Chairman), Tuggle, Brown, Hardin, Wiggin (deceased July 31, 1973), O'Neal.



CONTENTS

The Commission	iii
Introduction	1
Protecting the Consumer	2
Regulation of the Carrier Industries:	
Railroads	3
Financial Oversight	3
Bankruptcies and Reorganizations	3
Abandonments	5
Construction	7
Loan Guarantees	8
Northeastern Railroad Situation	10
Unifications	8
Amtrak	11
Discontinuances	14
Freight Rates	15
Freight Car Service	20
Motor Carriers—Property	26
Unifications	26
Pooling	27
Safety and Fitness	28
Rate Actions	30
Operating Rights	31
Household Goods	37
Motor Carriers—Passenger	39
Operating Rights	40
Rates	43
Freight Forwarders	43
Water Carriers	45
Express Companies	46
Oil Pipelines	46
Intermodal Services	47
Operating Rights	47
Acquisition and Control	48
Rates and Tariffs	48

Conglomerates	50
Securities	51
Loss and Damage	54
Tariffs	56
Rising Number of Tariffs Filed	56
Tariff Examining—Consumer Protection	56
Suspension and Fourth Section Board	56
Informal Rate Cases	57
Transmission of Tariffs—Docket No. 35613 ..	58
Updating Tariffs to Reflect General Increases	
Small Shipment Tariffs	59
Alpha Code Tariff Numbering System	60
Computerization	60
Tariff Users Advisory Committee	61
Released Rates Order	61
Environment	61
Accounting	64
Carrier Reporting Requirements	64
New Uniform System of Accounts for Motor	
Carriers of Property	65
Motor Carrier Platform Handling Study	67
Advisory Committee on Valuation—Pipelines .	67
Trans Alaska Pipeline	67
Procedure	68

ENFORCEMENT 70

Carrier Service	71
Rate Integrity	72
Illegal Operations	73
Control and Antitrust Matters	74
Financial Oversight	75

DEVELOPMENT OF POLICY 76

Rulemaking Proceedings	76
Court Actions	79
Legislation	84
Commission Budget	84
Commission Proposals	85
Other Proposals	86

ADMINISTRATION	92
Caseload	92
Management	92
Organization Changes	92
Management Improvement	92
Field Activities	94
Automatic Data Processing	95
Paper Work Reduction	96
Personnel Management and Manpower Development	97
Administrative Services	99
APPENDIX:	101
Commission Organization	101
Commission Workload	108
Publications	124
Appropriations and Employment	127
Carrier Financial and Statistical Data	129
INDEX	145



To the Congress of the United States:

WASHINGTON, D.C., *December 31, 1973*

It is my pleasure to submit the eighty-seventh Annual Report of the Interstate Commerce Commission, in accordance with section 21 of the Interstate Commerce Act.

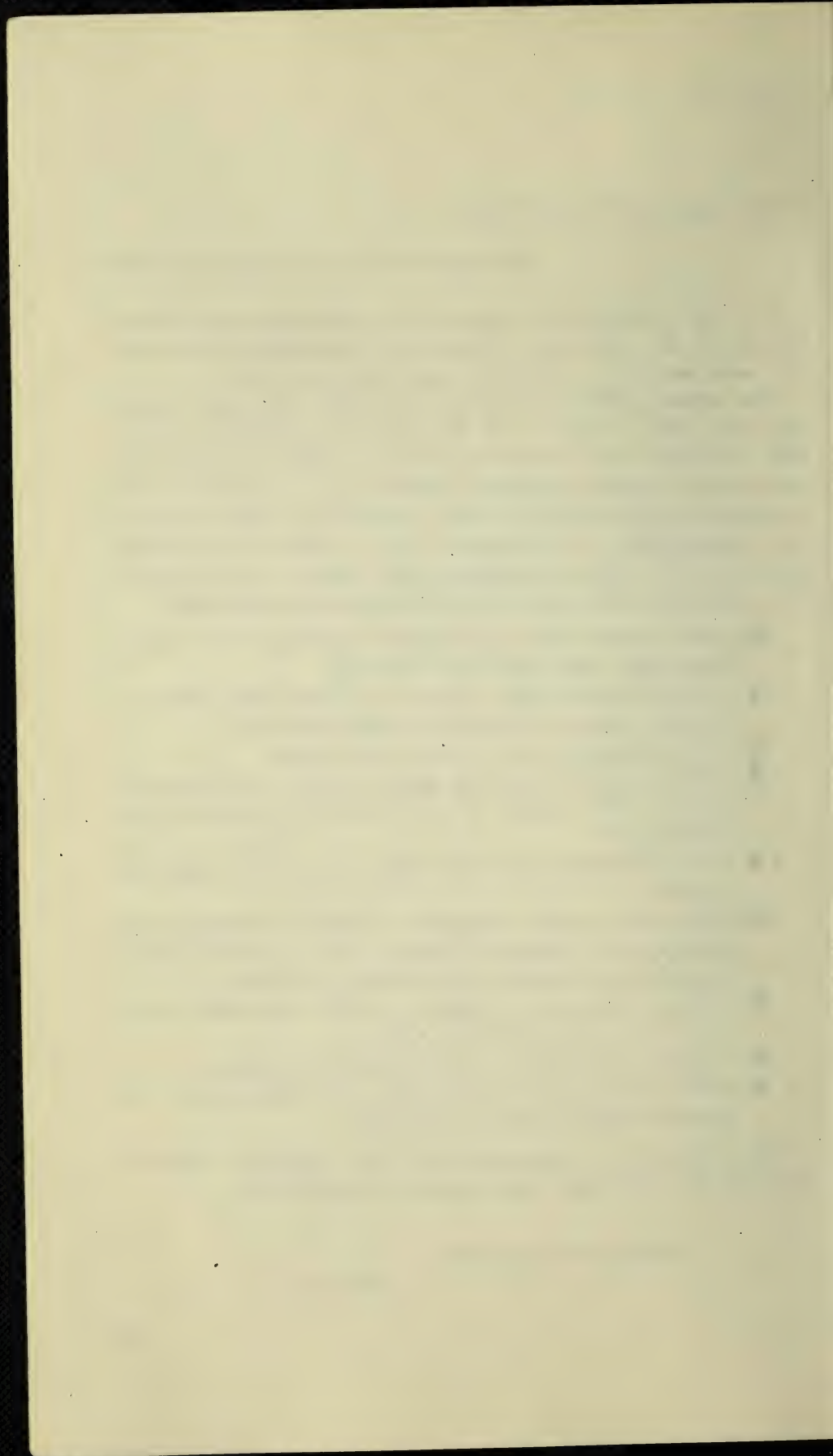
The report generally embraces the 1973 fiscal year ended June 30, 1973, except in the discussion of significant actions that transcend the 12-month period or where necessary to conform to various statistical analyses. It is a report of the Commission and its staff of 1,831, two-thirds of whom serve at the headquarters in Washington, D.C., with the remainder situated in 78 offices throughout the country. It is a report that summarizes the manner in which the agency handled:

- 8,831 formal cases, principally involving rates, operating rights, and finance proceedings.
- 13,953 informal cases, acted on under public observation but without the need for public hearing.
- 300 challenges in the federal court system.
- 329,215 tariffs requiring agency review, with an average of 3,850 pages of tariff material received each working day.
- 972 examinations of accounting systems of regulated carriers.
- 268 service orders designed to reduce shortages and buildups of railroad freight cars and attain more equitable distribution of the nation's car fleet.
- 569 prosecutions of violators of the Interstate Commerce Act or Commission orders.
- 7 appearances before Congressional Committees.
- 2,221 hearing-days before some 70 administrative law judges assigned to the Commission.

The statement of appropriations and aggregate expenditures for the 1973 fiscal year appears in appendix D.

GEORGE M. STAFFORD

Chairman



INTRODUCTION

In implementing the aims of the National Transportation Policy and the Interstate Commerce Act, our regulatory mission remains the keystone joining producer, distributor and consumer in a surface transportation system. The shipping and travelling public has enjoyed a responsive and dynamic regulated transportation system upon which the growing commerce of this nation depends.

We detail in this report the wide range of our recent accomplishments and our progress towards solving current problems. The railroads, save those in the northeast, generally have enjoyed financial gains, and an overall prosperity prevails in the motor carrier industry. Effects of major floods and extraordinary transportation demands have been felt by railroads. A special challenge stemming from the record-breaking export of wheat required both carriers and the Commission to put forth extra efforts to assure the maximum availability of freight cars. To enhance our assistance and protection of consumers, special personnel assignments have been made and new policies developed. Sharing a national concern, our compliance with environmental laws expanded by the courts reflected a major dimension of our regulatory activity. It is hoped that this report evinces fulfillment of the Commission's statutory tasks in context of the current complex needs and realities of a sound surface transportation system.

PROTECTING THE CONSUMER

As the oldest Federal regulatory agency with specific authority for consumer protection, the ICC has had a long history in this field. While every effort of the agency is directed toward assisting the consumer, new emphasis was placed upon this responsibility this year.

To centralize and provide more direct, one-step assistance to consumers with complaints or requests for guidance, a consumer information facility was established. It reports directly to the Chairman and concentrates on providing consumers with the informal and immediate information that is normally required. The office also provides 24-hour automatic telephone service which summarizes the more significant actions taken by the Commission daily.

Other offices in the agency which are heavily involved in providing direct assistance to consumers include the Bureaus of Traffic and Operations. The Bureau of Traffic has a seven-member unit with the sole purpose of protecting the consumer's interest in newly-filed tariffs. These are examined as to rates and rules which could limit carriers' service to less than their full operating obligation to consumers.

The Bureau of Operations handles the thousands of consumer requests for assistance in correcting household goods moving problems. To help reduce one of the most prevalent complaints in moving, we issued an easy-to-read Public Advisory (No. 4), *Lost or Damaged Household Goods - Prevention and Recovery*. Extensive assistance in this area and other facets of household goods moving is provided by the Commission's field offices. Four consumer affairs specialists were assigned to field offices and most of their effort has been concentrated in assisting the public in resolving difficulties experienced in moving.

REGULATION OF THE CARRIER INDUSTRIES

Railroads

Operations of class I railroads (Amtrak excluded) improved considerably during fiscal 1973. Operating revenues rose from \$12.8 billion to \$13.7 billion. Ordinary income increased from \$307 million to almost \$485 million. Rate of return rose from 2.46 percent to 2.90 percent. The pickup in the nation's economy, mild winter weather, and the absence of any prolonged strikes contributed to the overall earnings improvement.

Financial Oversight

The financial condition of the 64 line-haul class I railroads is comprehensively monitored by this Commission through selected financial tests and special audits each quarter. Carriers found to be in marginal or poor financial condition receive in-depth analyses. For the quarter ending March 31, 1973, 18 were classified as poor and eight as marginal, an improvement over the prior quarter in which 18 were poor and 12 marginal.

Bankruptcies and Reorganizations

The Commission has four major roles in rail reorganization proposals: (1) ratification or rejection of the court-appointed trustees; (2) fixing of fees and reorganization expenses paid to trustees and lawyers; (3) initial approval and reshaping of the reorganization plans presented; and (4) assistance to the court and trustees in continuing the operation of the debtor and preservation of its estate. While there are plans pending to modify some of the provisions of section 77 of the Bankruptcy Act, it is not expected that any substantial revisions will be made that will lessen the reorganization workload of the Commission. Adoption of some of the Commission's proposals in this respect could increase the workload.

Aside from the substantial time and effort devoted to resolving railroad problems in the northeast, the volume of reorganization work related to carrying out the provisions of section 77 of the Bankruptcy Act has increased substantially as the full effect of the recent bankruptcies has become evident.

No additional independent rail carrier went into bankruptcy during the current fiscal year, but a number of Penn Central subsidiaries and leased lines filed petitions in reorganization as the period closed. No rail carrier west of the Mississippi River was in bankruptcy, but some were performing marginal operations, with the largest problem being the Chicago, Rock Island and Pacific. The Rock Island's difficulties, as those of other marginal or bankrupt carriers, were compounded by the floods of 1972 and 1973.

Several of the northeastern railroads involved in bankruptcy proceedings were able to reduce their deficits during the fiscal year. Penn Central alone, by a reduction in losses, reported a \$90 million earnings improvement. Still, the continued erosion of resources of railroads in the northeast made reorganization efforts increasingly difficult. See discussion beginning on page 10.

At the beginning of the fiscal year, 12 rail carriers were seeking to be reorganized under section 77 of the Bankruptcy Act, including the Penn Central, Central of New Jersey, Erie-Lackawanna, Reading, Lehigh Valley, and Boston & Maine. The Erie's positive cash flow placed it in an improving financial posture. The Boston & Maine also was in a more comfortable cash position as the result of successful litigation over the purchase price of facilities sold to a local commuter service agency. Both the B & M's plan of reorganization and that of the New Hope and Ivyland Railroad were recommended for approval by administrative law judges.

The Commission has become concerned with the large legal fees charged by counsel for railroads in reorganization, and in some instances has reduced the amounts sought. Of course, such reductions must be balanced against the trustees' need to attract competent legal aid. The Commission has held that it retains jurisdiction over maximum compensation of all counsel for trustees under section 77 of the Bankruptcy Act, regardless of the nature of the work performed by such counsel. It has also held that reimbursement for all expenses comes within the Commission's jurisdiction—with direct expenses being set out separately while overhead expenses are covered

by the regular fee charged by counsel. In general, debtor railroads have several counsel and among them the tendency has developed to request compensation for relatively short periods of time, thus increasing the volume of work. During the 1972-1973 period some 60 compensation cases were ruled on by the Commission.

Abandonments

Excess capacity in the form of unused or little used track or facilities, or those destroyed by flood or other natural disasters where the cost of rehabilitation is excessive based on the potential available traffic, constitutes a major problem of the rail industry. This year 270 applications seeking authority to abandon trackage were filed, as compared to 304 applications in fiscal 1972, and 240 in 1971. The guideline utilized in abandonment proceedings, "public convenience and necessity," involves complex considerations: reliance of the public on the line sought to be abandoned; past operating results by the rail carrier over the line, both in volume and revenues; the carrier's overall operating results and financial condition; and the consequence of the losses from the line on the entire rail system. Environmental considerations are also important in the Commission's deliberations in abandonment proceedings. See *Burlington Northern, Inc., Abandonment*, 342 ICC 446, discussed in the Environment chapter of this report.

The U.S. District Court, Middle District of Pennsylvania, upheld the Commission's proposed abandonment regulations set forth in Ex Parte No. 274 (Sub-No. 1), *Abandonment of Railroad Lines*. The new procedures provide two simplified options in addition to the present long form used in applications for abandonment of trackage where the public's use of the service has been minimal—one, a new short form for use when little or no public opposition is anticipated; and the other, a form for use where the line in question has failed to generate more than 34 carloads of traffic per mile in a year, the basis being a rebuttable presumption that such a line is not required by the public convenience and necessity within the meaning of section 1(18) of the Act.

The short form requires a carrier to provide the Commission with sufficient information to permit a proper determination of the issues. If there is a lack of public opposition and the evidence also shows negligible use of the facilities, such

factors would permit the inference that there is little interest in continued operation of the line and that the abandonment should be permitted. This type of application would be handled without a hearing unless evidence offered by the opposing parties shows that public need does not permit the abandonment. Through these forms, abandonment cases can be handled more expeditiously and with reduced costs in terms of money, time, and effort for all concerned.

The remaining applications undoubtedly will be more complicated, more heavily contested, and require disposition under a more lengthy procedure, including the modified long form. The new approach will require the railroad to submit a statistical indication that existing traffic moving over the line to be abandoned is not sufficient for a financially break-even operation. To meet this test, the carrier would show that an average of 34 carloads of freight per mile of track to be abandoned was not received during the period covered. Unless an opposing party could offer substantial and convincing evidence to rebut the 34 carload presumption, the Commission could authorize the proposed abandonment without further proceedings. The lower court's decision is pending before the Supreme Court.

In *City of New York v. Bush Terminal, Inc.*, the U.S. District Court, E.D.N.Y., referred to the Commission the question of whether a terminal company was a common carrier and, if so, whether it was required to resume rail and car float services lawfully abandoned by its lessee, Bush Terminal Company, Inc. It was alleged that the company acted only as agent for other carriers in performing the operations. We concluded that the test of common carrier status is not what a carrier calls itself but what it does, i.e., whether it actually engages in public or common calling. Whether such activities are performed as an agent or principal is immaterial. Inasmuch as the services of the terminal company were available to all members of the public, shippers, as well as connecting carriers, we found that such activity established common carrier status. Accordingly, the terminal company was required to resume services abandoned by its lessee, *Status of Bush Universal, Inc.*, 342 ICC 550.

Several other proceedings were of significance this year. In *Penn del Co. Abandonment Bet. Wil. Jct. and New Wil.*, 342 ICC 570, Division 3 authorized the abandonment but pointed out that Penn Central should not expect its abandonment applica-

tions to be "rubber stamped," and that its method of presenting evidence left something to be desired. Since actual maintenance costs were not preserved, applicants sought to adduce estimates by track supervisors who were not present at the hearing. The state agency in the proceeding contended that the line was only a team track and, therefore, exempted by section 1(22) from the Commission's jurisdiction. It was held that the question of whether any particular track was exempt was a question of mixed law and fact for decision of the court but that the Commission must make appropriate findings for information and guidance of the court.

In Finance Docket No. 26303, *Mackinac Transportation Co. Entire Line Abandonment Between St. Ignace and Mackinaw City, Mich.*, an administrative law judge recommended granting the abandonment authority sought. It involves service extending a distance of 8.7 miles across the Straits of Mackinac. In a recently filed application, the Penndel Company, a subsidiary of Penn Central Transportation, seeks authority to abandon its line between Cedar Springs and Mackinaw City, Mich., a distance of some 200 miles. In another proceeding involving railroad ferry operations, the Ann Arbor Railroad seeks to abandon its entire line including service across Lake Michigan from Elberta, Mich., to Kewaunee, Wisc.

Construction

Three applications recently have been filed with the Commission under section 1(18) of the Act seeking authority to construct and operate lines of railroad for the movement of low sulphur coal, used primarily for electric power generation. Two of the applications by the Burlington Northern, Inc. (BN), in Finance Docket Nos. 27208 and 27212, involve operations, respectively, between Douglas and Gillette, Wyo., in Campbell, Converse, Weston, and Niobrara Counties, Wyo., a distance of some 126 miles, and between a point near Hysham, Mont., to a point adjacent to the Westmoreland Resources Mine, a distance of 36 miles, in Treasure and Big Horn Counties, Mont. The latter proceeding raises the question of whether the proposed construction is a line extension requiring Commission approval under section 1(18), or whether it is exempt under section 1(22). The question is one for court determination. Substantial environmental impact statements were filed by Burlington Northern in both pro-

ceedings. The third proposal is by the Chicago & North Western Transportation Co., in Finance Docket No. 27392, to construct a line of railroad from Fisher, Wyo., to a point some 76 miles to the north. This line would go into the same area which BN seeks to serve by the 126-mile line in Finance Docket No. 27208.

Loan Guarantees

The railroad loan program administered by the Commission under Part V of the Act had been reduced to \$153,112,275 by June 30, 1973, as compared to \$157,786,854 a year earlier. This year the United States paid \$12,323,000, representing principal and interest on the defaulted guaranteed loan of the Erie-Lackawanna Railroad Co. As provided by law, the Department of Justice will take steps to recover the amount from the defaulting railroad.

The New York, Susquehanna & Western Railroad Company made the last payment on its \$555,000 loan and has pared its second loan of \$300,000 down to only \$31,875. During the year, the government also received the last payment on a defaulted New York, New Haven and Hartford R.R. Co. loan which was paid by the United States in 1961. The principal amount of that loan now has been fully recovered.

Unifications

After extended hearings in what may be the longest and most complex "merger" case in the Commission's history, the third, and final volume of the administrative law judge's report and recommended order was served February 15, 1973, in Finance Docket No. 22688, *Chicago & North Western Railway Company—Control—Chicago, Rock Island and Pacific Railroad Company*, including various securities applications, Finance Docket No. 23285, *Union Pacific Railroad Company—Control—Chicago, Rock Island and Pacific Railroad Company*, Finance Docket No. 23286, involving a merger of the two prior carriers, and Finance Docket No. 23595, *Southern Pacific Company—Purchase (Portion)—Chicago, Rock Island and Pacific Railroad Company*.

The case involves conflicting applications by two sets of partners—Union Pacific and Southern Pacific on the one hand, and the Chicago & North Western and Santa Fe on the other. Both sets were seeking to acquire and divide the Rock

Island, a strategically located but financially weak rail carrier in the midwest. The administrative law judge recommended approval of the Union Pacific-Southern Pacific applications, but would require the sale of important Rock Island trackage to the Santa Fe.

He also proposed conditions which, if implemented, would restructure the rail system in the western half of the nation into four rail systems—Union Pacific, Southern Pacific, Santa Fe, and Burlington Northern. Among the requirements would be (a) inclusion of the Chicago & North Western in, and sale of an important Southern Pacific line to, Union Pacific; (b) inclusion of the Missouri-Kansas-Texas Railroad (Katy), the Kansas City Southern System, and portions of the Texas & Pacific Railroad in the Southern Pacific; and (c) inclusion of the Western Pacific, the Denver & Rio Grande Western, and most of the Missouri Pacific System in the Santa Fe. Disposition of two large railroads, the Frisco and the Milwaukee, would be left for later determination.

A joint petition by some 16 parties (including the Santa Fe, Chicago & North Western, and Southern Pacific) for an order dismissing the proceedings was denied by the Commission on May 3, 1973.

When the Commission authorized the *Northern Lines* merger¹ in 1967, it retained jurisdiction to receive, during a 5-year period, petitions from any railroad in the territory involved requesting inclusion in merger. The Chicago, Milwaukee, St. Paul and Pacific Railroad Company (Milwaukee) filed such a petition March 9, 1973, seeking reopening of the proceedings and inclusion of the Milwaukee in the merger on such terms and conditions as may be found agreeable by the parties or imposed by the Commission. No final determination has been made in the proceedings.

Another unusual development involves the Milwaukee. When the Louisville and Nashville Railroad (L&N) was authorized to merge with the Monon,² it secured direct access to Chicago, Ill., via Louisville, Ky., but was made subject to a

¹ By order of November 30, 1967, in *Great Northern Pac.—Merger—Great Northern*, 328 ICC 460, and 331 ICC 228, the merger of the Great Northern Railway Company, the Northern Pacific Railway Company, the Pacific Coast R.R. Company, and the Chicago, Burlington & Quincy Railroad Company into the Great Northern Pacific & Burlington Lines, Inc.

² *Louisville & N.R. Co.—Merger—Monon Railroad*, 338 ICC 134.

condition designed to give the Milwaukee access to Louisville where it could hook up with the Southern Railway for the performance of a competitive service. Now the Milwaukee seeks trackage rights over the L&N to New Albany, Ind., and joint use of the rail facilities of the Kentucky & Indiana Terminal Co. from New Albany to Louisville.³ A decision and order affirming the recommended grant of the administrative law judge was served January 10, 1973. In turn this decision was affirmed upon judicial review in *L&NR Co. & B&OR Co. v. United States*, civil action no. 7554-B (W.D. Ky 1973).

Northeastern Railroad Situation

Adequate transportation, which must carry the assurance it will be continuing, is literally the lifeblood of our economy. This need is perhaps most evident in the northeast because of its concentrations of population and industry. The Penn Central's involvement in bankruptcy court proceedings dominated the concern directed toward this area, but other railroads also faced serious decisions.

The operations of the Central of New Jersey were in danger of being terminated, and the Commission prepared contingency plans for a takeover of its operations by other carriers to provide service vital to the public and the economy. By the end of the fiscal year the crisis had moderated. However, the trustees of the Lehigh Valley had petitioned their reorganization court for authority to cease all rail operations. At the Penn Central, its trustees were contending that liquidation was the sole alternative to federal aid. Compounding the dire prediction that service could halt because of financial problems was a brief work stoppage due to a labor-management dispute. This precipitated a Congressionally-ordered moratorium for three months and a requirement that the Department of Transportation submit recommendations to assist the Congress in taking the legislative action required to bring some resolution of the chaos and avoid possible disaster faced in the northeast. The Commission accepted the same challenge and initiated the *Northeastern Railroad Investigation*, Ex Parte No. 293.

Acting within the 45-day time limit imposed by the Congress on the Department of Transportation, the Commission

³ Finance Docket No. 26525, *Chicago Milwaukee, St. Paul & Pacific Railroad Co. Trackage Rights—Louisville & Nashville Railroad Co. and Kentucky & Indiana Terminal Co.*

on March 26, 1973, presented its legislative recommendations. The Commission took the position that essential rail service must be maintained by one device or another and that the eastern carriers could not be reorganized and revitalized without federal intervention.

Under the Commission's proposal a core system would provide essential services. Lines and other facilities in a "Federal Aid Railroad System," to be identified within one year, would become eligible for federal aid for improvement and modernization upon application of the owner railroads. The government would be reimbursed through revenues generated by a one-percent transportation tax on property moved by all for-hire carriers.

During the period while essential lines and facilities were being identified rail service would be maintained by the existing bankrupt railroads under a lease and operating arrangement with the government. The Commission would be responsible for assuring proper use of lease payments, estimated at about \$175 million annually for picking up the slack between operating costs and revenues. The money would be recovered through cash repayment or through the issuance of 20-year, low-interest debentures.

The Commission would investigate services of the bankrupt carriers in line with permanent restructuring of essential trackage and facilities, and elimination of the non-essential. Handling of abandonments would be expedited. For low-density, yet essential lines we suggested a three-year federal-state operating subsidy program based on a 70-30 matching grant ratio. Federal outlays would be recovered from the transportation tax.

At the end of the fiscal year the Congress had the Commission's recommendations under active consideration, as well as proposals for other types of solutions from other agencies of government, both federal and state, and private interests.

Amtrak

The Commission's monitoring of Amtrak and the Rail Passenger Service Act of 1970 (the Amtrak statute) continued to create a major workload for the agency. While P.L. 92-316 somewhat curtailed the Commission's responsibility toward Amtrak activities, basic jurisdiction remained unchanged as to

the adequacy of Amtrak services in meeting the needs of the traveling public. Substantial man-hours per month are devoted to checking items such as on-time performance, the proper functioning of air conditioning and heating equipment, and cleanliness of facilities. The inspection reports are analyzed by Commission personnel and sent to Amtrak with the goal of promoting better passenger train service.

The Commission actively participates in intergovernmental projects concerning Amtrak. Upon request of the General Accounting Office it has reviewed, analyzed, and made recommendations on GAO reports as to Amtrak maintenance, seat reservations, and information services. Pursuant to requests of the Department of Transportation it has commented on proposed Amtrak law modification. DOT has recommended that the Rail Passenger Service Act be amended to limit the authority of the Commission on adequacy of service under Section 801 and to delete the requirement that basic system trains be discontinued under the procedures of Section 13a of the Interstate Commerce Act. However, the Commission feels that curtailment of its jurisdiction over the adequacy of service would undermine the goals of *Regulations for the Adequacy of Intercity Rail Passenger Service*, Ex Parte No. 277 (Sub-No. 1), wherein standards which are in the final stages of preparation will, when promulgated, aid in improving the quality of passenger train service.

Maintaining the Commission's jurisdiction under section 13a is necessary for an impartial determination of the true need and usage of a particular rail passenger service, and of the financial and social consequences of retaining or discontinuing that service. It is the Commission's view that the public interest would not be sufficiently safeguarded if the decisions as to the adequacy of service and discontinuance were left solely to the agency providing the service.

In the past year the Commission also was called upon to arbitrate compensation disputes between Amtrak and its contracting rail carriers. In Finance Docket No. 27194, *Determination of Cost Reimbursement under Section 405(f) of the Rail Passenger Service Act of 1970, as amended*, the Commission was requested to decide the fair amount of compensation to be paid Amtrak by railroads for transporting eligible railroad employees on a "pass" basis. On the evidence presented, the Commission prescribed a rate of compensation per mile of transport furnished a passenger. Because eligible individuals

would be carried solely on a "space available" basis, their carriage would involve only slight incremental costs for Amtrak. On that ground the Commission rejected Amtrak's proposal for a higher compensation rate. In Finance Docket No. 27353, *George P. Baker, et al., Trustees of the Property of Penn Central Transportation Company, Debtor—Compensation for Passenger Service*, the Penn Central reorganization court has requested the Commission to fix a just and reasonable compensation for the passenger service Penn Central performs for Amtrak. The trustees contend that existing compensation is inadequate. In Finance Docket No. 27353 (Sub-No. 1), *Determination of Compensation under Section 402(a) of the Rail Passenger Service Act of 1970*, Amtrak and Penn Central have jointly requested the Commission to require Penn Central to provide Amtrak with services, and the use of tracks and facilities, as set forth under the terms of the Amtrak agreement of April 16, 1971, and to fix a just and reasonable compensation therefor.

In 1971, the Commission instituted a rulemaking proceeding in *Losses under the Rail Pass. Serv. Act of 1970*, 343 ICC 379, which is related to its jurisdictional responsibilities under the Amtrak statute. The Amtrak statute authorized the Commission to act as the arbitrator in the event the railroads and Amtrak were unable to agree on the amount to be paid to Amtrak for assuming the operation of intercity passenger trains. The statute provided three methods of computing the capital contribution of the railroads, two of which utilize a computed amount as avoidable loss. Rules were adopted designed to equip the Commission with the necessary procedures for the determination of such avoidable losses in the event an impasse arises between Amtrak and a contracting rail carrier.

The Commission continues its involvement in the question of determining whether a given passenger train is intercity or commuter. The Amtrak statute in section 102(f) distinguishes between the two and excludes commuter and other short-haul passenger train service from Amtrak's responsibility. The distinction is an important jurisdictional factor in train discontinuance cases placed before the Commission. This complex interpretation problem was one of the issues in *Kennedy v. The Baltimore & O. R. C.*, 342 ICC 19. By an order of the United States District Court for the District of Columbia, on April 25, 1973, the Commission was requested to determine whether

the service involved was "intercity" or "commuter". The complainant alleged that the rail carrier discontinued certain trains without filing a notice with the Commission under section 13a(1) of the Act. The carrier, claiming the trains were "intercity" as that term is defined in the Amtrak statute, contended it was free to discontinue them without recourse to the Commission. At the end of this reporting period, the matter was pending.

Discontinuances

The Commission has jurisdiction to entertain section 13a notices or petitions only with respect to commuter and other short-haul service in metropolitan and suburban areas as defined in section 102(5) of the Amtrak Act. In fiscal 1973 our section 13a authority was invoked in only three proceedings.

In *Potomac Passengers Association v. The Baltimore & Ohio Railroad Co.*, the U.S. District Court for the District of Columbia referred to us the issue of whether certain Baltimore & Ohio Railroad passenger operations were "intercity" or within the "commuter or other short-haul" exemption of the Amtrak Act. Using the criteria enumerated in *Penn Central Transp. Co. Discon. Or Change in Serv.*, 338 ICC 318(1971), we found all operations to be intercity in nature. Five of the trains traveled distances in excess of 400 miles and four traversed 146 miles. The average distance between stops for the involved trains was 25.1 miles compared to an average distance of 6.4 miles for commuter trains of the same carrier. Although the trains incidentally picked up passengers commuting to and from Washington, D.C., this did not alter their basic intercity character.

In Finance Docket No. 27345, the Chicago, Milwaukee, St. Paul and Pacific Railroad Company filed a notice proposing to discontinue service of its passenger trains Nos. 118, 119, 601, 605, 604, and 610 operating between Walworth, Wis., and Fox Lake, Ill. These are the only passenger trains serving Walworth and provide the most expeditious service to Chicago. Strong protest was received and on May 1, 1973, the Commission instituted an investigation into the proposed discontinuance.

In Finance Docket No. 26959, *Chicago S.S. & South Bend Railroad Restructuring of Passenger Service*, the South Shore

sought to discontinue and rearrange certain passenger trains between Chicago and points in Indiana. We modified the proposal in such a manner as to aid in the preservation of train service, thereby serving to prevent a detrimental effect upon the environment which would otherwise result from increased highway traffic. The South Shore then sought to include additional passenger trains in the discontinuance. However, by order of March 27, 1973, we affirmed our prior order finding that the railroad had failed to show justification for discontinuance of additional trains.

Freight Rates

Proposed increases—Railroads, like other commercial enterprises, have been faced with rising expenses. To offset increased costs the rail carriers in recent years have sought to increase the general level of rates and charges.

The Commission is keenly attuned to shipper anxieties over proposals to increase rates, and two rulemaking proceedings were instituted during the year with a view toward providing a wider dissemination of rate information to the public. In *Notice of Increases in Freight Rates and Passenger Fares*,¹ it was proposed that the carriers be required to submit a summary of requested increases in sufficient detail to apprise the public of their effect. This summary would accompany the evidentiary case-in-chief, which the Commission's rules and regulations presently require to be filed when the proposal is initiated. A copy of the proposal, the summary, and the evidence is then filed with the governor of each state and with each regional or district office of the Commission in the affected territory. The other proceeding grew out of *Increased Freight Rates and Charges, 1972*,² in which the Commission prescribed interim procedures for the minimum evidentiary showing necessary to support a proposed general increase in rates. Permanent procedures will be given consideration in Ex Parte No. 290, *Procedures Governing Rail Carrier General Increase Proceedings*, which was instituted Dec. 1, 1972.

Increased Freight Rates and Charges, 1972,³ was itself an investigation into the adequacy of all freight rates and

¹ Ex Parte No. 286, 341 ICC 589.

² Ex Parte No. 281, 341 ICC 288.

³ Ibid.

charges, and the Commission there considered a general increase in rates proposed on a selective commodity basis. Also under review was the 2.5-percent emergency surcharge which applied during the pendency of the proceeding and which was discussed in the annual report for last year. The Commission noted its grave concern with the financial condition of the nation's railroads. With this in mind, the Commission found that the carriers were in need of additional revenue to offset increases in expenses and to provide an improved level of earnings to protect the public interest in a sound, adequate, and efficient transportation system. In the absence of the additional revenues, the earnings would have been insufficient to enable the railroads under honest, economical, and efficient management to provide the type of service consistent with the national transportation policy. However, numerous holddowns (increases in amounts less than proposed) were required to prevent diversion of traffic from the railroads or discriminations to shippers.

However, not all railroad proposals for increases met with favorable treatment during the past year. A petition for a 2-percent emergency surcharge was denied in *Increased Freight Rates and Charges, Southern and Western Railroads, 1973*.⁴ There, the Commission noted that the carriers had been meeting for several months on the matter and that, had a real emergency existed, it was doubtful the negotiations would have been extended for such a lengthy period. In addition, it was stated that railroad earnings were not so inadequate as to warrant a surcharge that would result in consumers having to pay higher prices in the marketplace while the carriers decided upon the nature of the permanent increases to replace the surcharge. Finally, the relief sought would have led to the anomalous result that those carriers most in need of additional revenue—the eastern district railroads—would receive the least, since (apparently fearful of traffic diversion to other modes of transport) they did not join in the request for an advance in rates and charges.

Another increase proposed for general applicability was at issue in *Protective Service Charges—1972*,⁵ in which the railroads sought a nationwide increase in the charges for refrigeration, ventilation, and heating services for perishables. The Commis-

⁴ Ex Parte No. 292, decided Feb. 19, 1973, ICC.

⁵ Ex Parte No. 288, 341 ICC 573.

sion instituted an investigation into the adequacy of the present charges and authorized the filing of tariffs providing for an interim increase approximating 25 percent on fresh commodities and 15 percent on frozen ones. After consideration of the protests and statements from shippers and other interested parties, the Commission rejected the tariffs and discontinued the proceeding because the proposal had not been justified.

A number of more limited increase proposals also were considered during the prior year. In two related cases, it was found that rate increases on vegetables, fruits, and melons from the west to the east and south were not shown to be just and reasonable.⁶

In *Meat & PHP, TOFC, SWL, WTL, Official Territories*, 340 ICC 214, the Commission, on reconsideration, disapproved increases on meats and packing-house products from the west and southwest to the east. The finding, however, was without prejudice to the republication of rates which would recoup costs, provided that the grouping of origins did not include a disparity greater than 25 percent in distance from destinations.

In a proceeding involving increased reciprocal and other switching charges at Kansas City, Mo.-Kan.,⁷ the Kansas City Southern Railway Company was not permitted to raise its charges to the level proposed. However, increases on a lower basis were approved since the carrier was providing the vast preponderance of the service within the terminal area and there was no real reciprocity from the other carriers. Charges had not been raised since 1956 on this service.

In addition to the increased rates and charges on interstate movements, the carriers have also sought concomitant relief from the Commission on intrastate traffic. Reports and orders were issued during the last year approving the increases in intrastate rates and charges in Georgia,⁸ Kansas,⁹ Mississippi,¹⁰ and Virginia.¹¹

Action on complaints—The Commission decided a number of cases upon complaints from shippers and carriers. One such

⁶ *Vegetables & Melons, bet. W. & Southwest, Midwest & S.*, 341 ICC 597; and *Citrus Ariz. and Calif. To Eastern States*, 341 ICC 622.

⁷ *Increased Switching Charges at Kansas City, Missouri-Kansas*, ICC.

⁸ *Georgia Intrastate Freight Rates*, 1969, 341 ICC 778.

⁹ *Kansas Intrastate Freight Rates and Charges—1971*, 343 ICC 400.

¹⁰ *Mississippi Intrastate Rail Freight Rates & Charges*, 1969, 341 ICC 69.

¹¹ *Virginia Intrastate Freight Rates and Charges—1969*, 341 ICC 700.

proceeding arose when various railroads attempted to regroup, in a general increase proposal, the components of fertilizer with chemicals. The Commission found that the interim rates collected on the higher chemical basis were unjust and unreasonable and awarded reparations.¹² Another shipper also received an award of reparations upon complaint involving the failure of the railroads to absorb wharfage charges on certain export shipments. It was determined that the additional charges for the service were unreasonable because the line-haul rate included an amount for port handling. If wharfage charges were not to be absorbed, the rate should have been reduced to exclude the port-handling additive.¹³

When various carriers refused to pay an allowance to a shipper providing its own trailers for piggyback service, the shipper sought damages. The Commission found, however, that the furnishing of the equipment was a gratuitous act on the part of complainant and that the Commission had no authority to compel the railroads to provide an allowance in such situations.¹⁴

In an action brought by several steamship operators on the Great Lakes, the Commission found that a railroad tariff provision conditioning the application of unit-train rates on coal upon the tender of 850,000 tons annually unlawfully deprived the water carriers of an opportunity to compete for the traffic and thus was a destructive competitive practice.¹⁵

Other rates and service actions—Other actions of policy significance covered a wide range of subjects. In a proceeding involving a proposed tariff rule, the Commission found rail cars could not be released by shippers through advice to the carriers by telephone or in writing because there was too much latitude for false information which would encourage discrimination, preference, and prejudice between shippers and receivers.¹⁶ When various railroads proposed to establish milling-in-transit privileges at Minneapolis and St. Paul, Minn., the tariff publication was found lawful under existing decisions, the Commission refusing to substitute its judgment on

¹² *Allied Chemical Corp. v. Norfolk & Western Ry. Co.*, 341 ICC 266.

¹³ *International Multifoods v. A.T. and S.F. Ry. Co., et al.*, 343 ICC 373.

¹⁴ *Bud Antle, Inc. v. Boston and Maine Corp., et al.*, 343 ICC 351.

¹⁵ *Great Lakes Ship Owners Assn. v. Chicago & N.W. Ry.*, 341 ICC 272.

¹⁶ *Notification of Unloaded Car, by Consignee to R.*, 341 ICC 811.

the wisdom of the proposal for that made by management.¹⁷ Approval was also accorded to routing changes, subject to a number of conditions, necessary to assure the movement of traffic over the lines in Pennsylvania upon which the bankrupt Central Railroad Company of New Jersey had suspended operations pursuant to an order of its reorganization court. A severe crisis was thus avoided.¹⁸ Finally, upon petition for a declaratory order, it was determined that the tariff charges sought to be collected in a court suit for the movement of new tank cars did not apply.¹⁹

The Central Railroad Company of New Jersey sought authority to abandon two segments of main line. The affected shippers agreed that if the railroad would continue to operate these lines as spurs for their benefit, they would pay charges applying in addition to the otherwise applicable rates and charges for transportation.²⁰ With respect to one of the lines, only a single shipper received service, and the charge to which it had agreed was approved. In the other instance, however, the railroad would have provided service to parties other than those bearing the charge. The Commission found the carrier had not reasonably distributed the burden of continuing the service among the various users, and the proposed charge was ordered canceled.

Ex Parte No. 270 and Ex Parte No. 271—Apart from day-to-day concern with ruling upon the freight rate issues presented for adjudication, the Commission set aside part of its resources for a careful analysis of the ultimate policy direction for this key aspect of regulation.

Investigation of Railroad Freight Rate Structure (Ex Parte No. 270) and *Net Investment—Railroad Rate Base and Rate of Return* (Ex Parte No. 271) are the most comprehensive and significant investigations ever instituted by the Commission. Ex Parte No. 270 is concerned primarily with (1) the possible self-defeating nature of general rate increases with respect to generating revenue, (2) disparities and distortions in the basic rate structure, (3) uneven effects of general increases on individual railroads, and (4) the apparent lack of railroad incentive to improve service in line with shipper requirements. Ex Parte No. 271 is concerned with establishing a rate base

¹⁷ *Transit Provisions on Wheat at Twin Cites, Minn.*, 341 ICC 235.

¹⁸ *Routing via Oak Island Jct., New Jersey*, 341 ICC 129.

¹⁹ *Tariff Provisions On New Empty Tank Cars*, 341 ICC 257.

²⁰ *Contract Service Charges Between New Jersey Points*, I & S 8702.

and then determining a reasonable rate of return predicated upon the base.

In June 1973 the Commission contracted with Leonard S. Goodman to serve as special projects counsel and to produce appropriate evidence for the development of a full record in these cases. Not since the appointment of the Honorable Louis D. Brandeis, prior to his serving on the United States Supreme Court, as special counsel in *The Five Percent Case*, 31 ICC, 351 (1914), has the Commission engaged the services of an outside counsel to assist in the development of a record.

Freight Car Service

After a year of generally easy car supply, fiscal 1973 was a period of increasingly critical freight car shortages. The problem escalated to the point where the shortage was the most severe in the history of the Commission, becoming so acute at times that it threatened the nation's commerce. The squeeze in car supply caused by the record grain sale to the Soviet Union was aggravated during the year by fuel shortages, heavy rains in the fall and early snows that continued through the winter. This was followed by heavy spring rains and record flooding which disrupted rail service and adversely affected shippers' ability to load freight cars.

The sale of 422 million bushels of grain to the Soviet Union early in August 1972, triggered the largest movement of grain in American history. The enormous logistics problem placed a severe strain on the available supply of boxcars and covered hopper cars, the types of equipment normally used by grain shippers. Surplus cars disappeared and increasing demands for equipment quickly developed into a severe and critical car shortage that lasted through the year. Complicating the car supply problem were stepped-up demands for freight cars to meet the loading requirements of the Commodity Credit Corporation's grain relocation and export programs, the various seasonal agriculture crops, and increased industrial production needs.

The demand for cars continued to increase week by week, with substantial shortages reported, up to a total of 42,534 cars of all types, for the week ended March 3. Shortages of plain boxcars and covered hopper cars continued at a generally high level through the last quarter of the fiscal year, reflecting the strong demand for such equipment, particularly

in the heavy grain-loading midsections of the country and in the western lumber-producing areas.

The chief owners of freight cars are the nation's class I railroads. In 1958 these railroads owned a total of 1,823,719 cars of various types, including 681,259 plain boxcars, 50,029 equipped boxcars, 56,870 covered hoppers, and 49,983 flatcars. By the end of fiscal 1973, car numbers had declined to 1,427,198 cars. The number of covered hopper cars rose to over 145,000 in fiscal 1973, reflecting continued growth in demand for this high-capacity car for moving grain and other dry bulk commodities, and replacing the general-service boxcar for such traffic. The number of equipped boxcars also increased, while the ownership of plain boxcars, gondolas, and open-top hopper cars declined. Of significance in the equipment trend is the decline of the "common boxcar." The number of such general-service cars had decreased to 353,406 cars by the end of the fiscal year, increasing the pressure on the car-supply problem. While the equipment inventory continued to decline, the size of cars increased. The average capacity of freight cars in use increased in 1972 to 69.5 tons per car, up 1.1 tons over the preceding year, and 13 tons in ten years. The average of cars installed in 1972 was 86 tons, compared with a 59-ton average for cars retired. The average weight of a carload of freight rose to 56.5 tons in 1972, reflecting the continuing trend toward heavier loading and the addition to the fleet of higher-capacity cars.

With the onset of the freight car shortages early in the first half of the fiscal year, the Commission under its emergency powers issued Service Order No. 1112, effective Oct. 9, 1972. It required the railroads to expedite the handling of all freight traffic by the placement, removal, and forwarding of cars within a 24-hour period; to make light repairs within a similar period; and to assess a storage charge on each car assigned to a specified shipper.

In the ensuing months the Commission took further emergency actions to relieve the pressure caused by the car shortage, particularly of boxcars and covered hopper cars for the movement of grain. It issued service orders which permitted the substitution of open-top hopper cars in lieu of covered hoppers for the movement of grain or soybeans. Railroads were prohibited from using more than 25 percent of their ownership of jumbo covered hopper cars in unit-grain-train service. Free time was reduced and demurrage

charges increased at ports to obtain better utilization of the available car supply. The Commission also maintained close surveillance of the railroads' compliance with its mandatory Car Service Rules 1 and 2, which require empty cars on the line of a non-owning railroad to be routed to or in the direction of the car owner.

In addition to monitoring the transportation of grain and the efficient use of grain-carrying freight cars, the Commission maintained a close scrutiny on car supply for the movement of lumber, plywood, and fertilizer. Responding to increasing reports of a shortage of boxcars and other railroad freight cars for transporting forest products, the Commission issued Service Order No. 1134, effective May 15, 1973, to prevent undue delays in the diversion, reconsignment, or other disposition of the cars. The order discouraged holding of cars of lumber at a reconsignment point for longer than a five-day period and provided that carload shipments of lumber or plywood held in excess of five days would lose their through-route privileges.

Helping to ease the pinch in car supply, caused by the huge and unexpected impact of grain shipments for export, was the well over 10,000 surplus open-top cars that the railroads made available to grain shippers. The opening of the Great Lakes ports, in late March of 1973, also took some of the strain off Gulf portside elevators and increased the amount of grain moving under the export program. Another factor easing the pressure of the car shortage was the innovative project undertaken by the Chessie System (C&O/B&O Railroads) for the movement of grain from the midwest, as if it were coal, in unit trains of open-top coal hopper cars for dumping directly into ships through its unused coal unloading facilities at Newport News, Va. The complete movement involved over 100 trains (each of 90 cars, carrying a total of about 260,000 bushels).

The harvest of the winter wheat crop, which got underway in the southwest in late May was practically completed in the southern areas as the fiscal year ended. The car supply was generally adequate to meet these requirements, but the increased demand as the harvesting moved north and west caused a general tightening in the car supply. Action was taken to have additional cars moved into the producing areas to alleviate the situation. The 1973 winter wheat crop was

expected to total 1,278 million bushels, 8 percent above the 1972 crop and 12 percent more than in 1971.

Spearheading the Commission's task in stemming the critically mounting shortage of freight cars for the transportation of grain, as well as other commodities, was its field force which policed the observance of service orders designed to improve car utilization. ICC service agents worked closely with railroads, shippers, and receivers to promote more efficient car handling practices. The Commission also established liaison with grain exporters and operators of grain elevators at the major ports to assist in maintaining grain unloading operations in a fluid condition and to prevent undue car delay and accumulation.

Embargoes were imposed against the acceptance or movement of grain to port terminal areas and other locations threatened with congestion of cars. Rerouting orders issued under Revised Service Order No. 994 authorized railroads unable to transport traffic in accordance with shippers' routing because of flooding, track damage, or other conditions requiring temporary diversion of traffic, to divert such traffic over any available route to expedite the movement, regardless of the routing shown on the waybill. (See listing of service orders, rerouting orders, and embargoes issued during the year, page 116.)

The Commission also utilized other approaches to minimize the impact of the car shortage crisis. During the winter months, the Commission cooperated with the Office of Emergency Preparedness in expediting the handling of tank cars, both loaded and empty, for the movement of propane gas which was in short supply for heating purposes and to dry grain and prevent spoilage at midwest elevators. It also issued emergency temporary authority to motor carriers with suitable equipment in an effort to alleviate the problems arising out of the propane gas shortage.

In a notice of proposed rulemaking and order served August 16, 1972, the Commission in Ex Parte No. 285, *Maintenance of Records Pertaining to Demurrage, Detention, and Other Related Accessorial Charges by Rail Common Carriers of Property*, undertook to study the need for requiring railroads to make and maintain records sufficient to assure the proper assessment and collection of all applicable demurrage, detention, or other accessorial charges on both rail freight cars and freight trailers. This was prompted by field staff reports of

serious laxities in carriers' compliance with basic demurrage and other detention tariffs.

In an order served October 19, 1972, the Commission instituted a rulemaking proceeding Ex Parte No. 289, *Remittance of Demurrage Charges by Common Carriers of Property by Rail*, to consider requiring railroads to remit to the railroad freight car owner all demurrage charges over and above \$10 per car per day collected and retained by a railroad on foreign cars detained on its lines. The proceeding was initiated to consider whether the adoption of such a procedure would create added incentive for railroad car owners to acquire additional cars and would remove any inducement on the part of non-owner railroads to encourage the detention of freight cars so as to benefit from the collection of demurrage.

In November 1972, the Commission amended its Service Order No. 1112, *Railroad Operating Regulations for Freight Car Movement*, to prohibit railroads from removing empty freight cars from unloading points prior to removal of all bracing, blocking, dunnage, paper, and other foreign matter directly related to the inbound load. Cars not completely unloaded by the consignee remain on demurrage or detention charges pending completion of the unloading. Any carrier removing cars contrary to the provisions of the order can be prosecuted, not only under the Elkins Act for violations of Rules 14 and 27 of the Uniform Freight Classification, but can subject itself to monetary penalties provided by the Interstate Commerce Act.

The Commission, in an order served December 19, 1972, in I & S Docket No. 8701, *Notification of Unloaded Car, by Consignee to Railroad*, cancelled a railroad industry proposed tariff rule providing that a car may be released from demurrage as of the date and time written or telephoned advice is received by the railroad that the car is unloaded and available to the railroad. The railroads had contended that the proposed rule would increase freight car utilization, improve the accuracy of demurrage records, and enable them to provide better service. A court restrained the order, pending a hearing, on the request of six railroads.

The U.S. Supreme Court on January 22, 1973, reversed the judgment of a district court which had sustained protests by the Florida East Coast and Seaboard Coast Line railroads that the Commission, in establishing incentive per diem rates in Ex Parte No. 252 (Sub-No. 1), *Incentive Per Diem Charges—1968*,

337 ICC 217 had failed to comply with certain procedural requirements of the Administrative Procedure Act. The case was remanded to the district court. Also pending before a court at the end of the fiscal year was an order in that same proceeding which made the charges applicable throughout the year, instead of only from the September through February period. The Commission deferred all incentive per diem payments due on or after May 1, 1973, under the changed regulations, pending resolution of the court action. This action, however, does not affect the collection of incentive per diem charges during the September through February period.

The Commission activated its standard emergency plans to assist the public and shippers in obtaining alternative transportation during the brief Penn Central Railroad work stoppage on February 8, 1973. Rerouting Order No. 84 was issued authorizing other railroads to handle traffic routed via the Penn Central. The United Transportation Union strike against the carrier over the issue of cutbacks in crew sizes threatened to have serious economic consequences, including food shortages, heavy layoffs of workers in the auto and steel industries. Coal producers served by the carrier were faced with shutdowns for lack of cars. Some 300,000 commuters were affected. The one-day strike ended when President Nixon signed a congressional resolution ordering the striking union back to work. The Penn Central trustees decided on May 25 to postpone indefinitely the implementation of new work rules that would have reduced the size of train crews.

In a report and order served April 16, 1973, in Ex Parte No. 241, *Investigation of Adequacy of Railroad Freight Car Ownership, Car Utilization, Distribution, Rules and Practices*, 343 ICC 360, the Commission modified Car Service Rule 7, relating to the interchange of cars between carriers, so as to require, effective June 1, 1973, the assessment of certain penalty charges by the receiving carrier against another carrier for the latter's failure to furnish proper forwarding data. These penalty provisions are an attempt to encourage more efficient operating practices.

In No. 35363, *Handling of Empty Freight Cars, U.S.A.*, proposed rules governing the use of privately owned freight cars furnished to railroads were not shown to be just and reasonable. The Commission adopted the findings made a year ago by an administrative law judge and directed the railroads to cancel the proposed schedules.

Motor Carriers—Property

The increase in the nation's business activity contributed to the general prosperity of the motor carrier industry this year. Operating revenues for regulated trucking firms were stimulated by traffic gains in tonnage and ton-miles, increased freight rates, and the growing trend toward higher rated small shipments.

In spite of impressive industry results the prospects for future gains were guarded at the close of the 1973 fiscal year. Continued general inflation, the energy crisis, delayed rate increases resulting from the price freezes, restrictions stemming from environmental control standards, higher fuel costs, and a recently negotiated 33-month contract with the Teamsters' Union calling for an estimated 7-percent increase in hourly wage and fringe benefit costs can be expected to have an impact on profit margins.

Unifications

In a proceeding proposing the creation of an unusually large motor carrier system, Ringsby Truck Lines, Inc., and United-Buckingham Freight Lines, Inc., would be consolidated, with Ringsby as the controlling carrier. The system would have assets in excess of \$40 million (No. MC-F-10502, *Ringsby Truck Lines, Inc.—Control—United-Buckingham Freight Lines, Inc.*). Final approval in this case has been conditioned upon final approval in another, No. MC-F-11411, in which a report and recommended order of an administrative law judge was served in March 1973. In No. MC-F-11411, United-Buckingham Freight Lines, Inc., and a subsidiary would sell part of their properties and receive about \$6 million to insure the financial soundness of the resultant carrier system in No. MC-F-10502. (See No. MC-F-11411, *Transcon Lines—Purchase (Portion)—United-Buckingham Freight Lines, Inc., and Norwalk Truck Lines, Inc.*)

A problem often encountered in motor carrier unifications concerns the question of whether a vendor has actively operated in the past and is selling an on-going operation needed by the public. In one case we found that some bulk commodity rights proposed to be sold had not been used to serve various points, and the application was denied to that extent (No. MC-F-10398, *Arizona Tank Lines, Inc.—Purchase*

(Portion)—*Springer Corporation*). In another case the vendor was found, on an overall basis, to have conducted substantial operations within its own territory plus joint-line service into the vendee's territory. We concluded that the applicants had shown a public need for a unified service by the vendee and the application was granted (No. MC-F-10728, *O.N.C. Motor Freight System—Purchase (Portion)—C-B Truck Lines, Inc.*)

Another case involved the problem of a possible "split" of operating rights, i.e., the retention by the seller of operating rights duplicative of those being sold. The Commission usually disapproves such a result but made an exception in this case, since the retained rights authorized nonstop service between two points while the sold rights were only for service to intermediate stops between the two points (No. MC-F-10746, *Briggs Transportation Co.—Purchase (Portion)—North Eastern Motor Freight, Inc.*).

Violation of our regulations tends to undermine the overall regulatory system. It is also a serious matter to the individual carriers affected. Because of the important consequences, we insist that proof of such violations be clear and convincing. In two proceedings the evidence was adjudged not sufficient for finding violations of the statute (No. MC-F-11212, *Gallatin-Portland Freight Lines, Inc.—Purchase—Hartsville Freight Company*; No. MC-F-11640, *Krevda Bros., Express, Inc. and R & H Corporation v. Rebo Transit, Inc., Glen W. Reed and Michael L. Reed.*)

Pooling

Carriers continued to display an interest in pooling their services. Typically, a large multi-state carrier would make an agreement for a small local carrier to make all deliveries and pickups in certain areas. The Commission has held that these arrangements are beneficial to the public by enabling large carriers to provide faster service on long-haul runs, while tendering the local carriers a larger volume of traffic. For example, see No. MC-F-11394, *Sumas-Everson Auto Freight, Inc.—Pooling—O.N.C. Motor Freight System*, and related applications. Pooling arrangements are permitted only when the contracting carriers have all been providing active service. In a recent proceeding, an administrative law judge recommended denial of 11 related pooling applications because of a lapse in service by the long-haul carrier.

Safety and Fitness

Of particular concern to the Commission, under its statutory obligation to make findings as to the fitness of applicants for operating authority, are situations involving intentional unlawful activities as opposed to those unlawful operations under "color of right" or those in which there were other mitigating circumstances. A carrier's safety record is also essential to the question of its fitness to conduct highway operations. Recent decisions by the Commission have detailed our responsibilities in this area. Where needed to insure that a carrier remains in compliance with safety and other lawful requirements, appropriate conditions have been imposed upon grants of authority. A fitness determination is based solely upon a carrier's conduct and not upon whether or not a public need has been shown for the proposed service.¹ In one recent case, a carrier which had been found to be performing unlawful leasing operations, and had been previously put on notice of the unlawful nature of such operations, was denied authority on fitness grounds. It will be required to refute the import of its past conduct before it will be authorized to conduct new operations.²

The concept of fitness does not vary with the size of carriers. The Commission has rejected the argument that smaller carriers should be held to a lesser level of accountability than larger carriers. It has refused to apply a different standard of conduct in judging a small carrier's actions.³ Where it appeared, however, that alleged violations were performed under color of right or that applicant had taken steps to assure future compliance with applicable rules and regulations, we have found that carrier fit, although in some instances we have imposed a time limitation on the authority granted so that the fitness record might be reappraised at a future time.⁴

Where respondents in an investigation proceeding ceased certain unlawful operations, which had been performed under a good faith, albeit mistaken, interpretation, a cease and desist order was nevertheless entered. Discontinuance of the viola-

¹ *Metler Hauling & Rigging Ext.—Loudon County, Tenn.*, 117 MCC 557.

² *Diamond Trans. System, Ext.—Wis. and Okla. Origin*, 117 MCC 706.

³ *Ewen Brothers, Inc., Com. Car. Applic.*, 117 MCC 101.

⁴ *American International Driveaway Ext.—Hawaii*, 117 MCC 63; *Service Transfer, Inc., Contract Carrier Application*, 117 MCC 506; and *Skriba Contract Carrier Application*, 115 MCC 855.

tions does not moot the question of whether a cease and desist order should be entered. Such an order has virtually no punitive effect in the absence of further violations; but it is a necessary prerequisite for further enforcement action should the violations continue or be resumed.⁵

The Federal Highway Administration of the Department of Transportation (FHWA) promulgates regulations regarding safety of motor carriers. FHWA may intervene in Commission proceedings in order to present evidence on a carrier's safety fitness record, and recently did so in an application proceeding, alleging that the applicant had grossly violated the Department's safety regulations. After intervention was allowed and issuance of the carrier's certificates were withheld pending determination of its fitness, FHWA sought to postpone its prosecution of the matter for nine months. It requested that the carrier's certificates no longer be withheld. Rejecting this request, the Commission instituted an investigation proceeding, reopened all of the carrier's proceedings in which certificates had not been issued, and in the first action of its kind pursuant to the provisions of 49 U.S.C. 1653 (3), requested the Secretary of Transportation to participate in the proceeding to present evidence pertaining to the carrier's fitness.⁶ In an interim report pending hearing of the investigation case, we noted that while DOT has jurisdiction over motor carrier safety, this Commission is charged with the ultimate decision on the fitness of applicant carriers aimed at assuring continuing compliance with those requirements. Contrary to respondent's contention, reopening of an application proceeding was found not to constitute punishment of the carrier with a premature finding that the carrier is not shown to be fit. It was clarified that the concept of fitness is a continuing one, that an applicant carrier must establish its fitness in every proceeding, and thereafter maintain its operations at all times in conformity with all applicable statutes and regulations.⁷

Lastly, where a carrier had refused (1) service at certain points, (2) to accept certain interline shipments, and (3) to accept the traffic of certain shippers, the carrier was found not to be rendering reasonably continuous and adequate service as

⁵ *Collins, Ford, Longacre, Patterson—Investigation*, 117 MCC 628.

⁶ *Eagle Motor Lines, Inc., Invest. & Revoca. of Certif.*, 117 MCC 30.

⁷ *Eagle Motor Lines, Inc., Invest. & Revoca. of Certif.*, 117 MCC 72.

required by the Act and the carrier's certificate. It was ordered to resume operations and to cease and desist from further unlawful practices.⁸

Rate Actions

In the recent past, the Commission has promulgated procedures in connection with motor carrier freight rate increases designed to aid in the elimination of uncertainty among users of the service as to future transportation costs. The carriers are required, as a condition to obtaining special permission for departure from the tariff-circular rules, to publish proposed increases on not less than 45-days' notice and to submit their entire evidentiary case-in-chief at the time of initiating the proposal. At the same time, a copy must be forwarded to each party of record in the last corresponding general revenue proceeding. This year, in *Notice of Increases in Freight Rates and Passenger Fares*,¹ it is proposed to strengthen the protection for the general public in the manner discussed in the section of this report dealing with rail rates.

Increases in the general level of motor rates in two ratemaking territories were considered in the past year.² In both proceedings, the carriers sought to depart from the evidentiary requirements discussed above. The Commission refused to accept cost evidence developed in this manner because it would have introduced an uncorrected bias. In each case, increases on smaller shipments were disapproved.

In a more limited proceeding, an increase in classification ratings on blankets was found just and reasonable.³ The Commission determined that all proof of commodity transportation characteristics need not be established through probability sampling, the necessity for sampling being dependent on the complexity and magnitude of the data to be developed. The changed ratings were ordered canceled, however, because there was no evidence to show that the increases comported with Wage and Price Stabilization Program criteria.

The carrier members of the Middle Atlantic Conference, a collective ratemaking organization, under an agreement ap-

⁸ *Braswell Motor Frt. Lines, Inc., Investigation*, 118 MCC 392.

¹ Ex Parte No. 286, *Notice of Increases in Frt. Rates and Pass. Fares*, 341 ICC 589.

² *General Increase, East-South Territory*, 341 ICC 735; and *General Increase, July 1972, Eastern Central Territory*, 343 ICC 1.

³ *Increased Classification Ratings on Blankets*, 341 ICC 760.

proved by the Commission pursuant to section 5a of the Act, sought to amend the agreement to provide for the expulsion of members failing to supply data to support rate changes before the Commission.⁴ Assertedly, the amendment was necessary to ensure compliance with the Commission's rules and regulations governing general increases in rates. The proposal was rejected because it went far beyond the scope of the Commission procedures. Nevertheless, it was announced that consideration would be given to the problem encountered when, upon request by the various rate bureaus, data necessary to comply with those procedures are not voluntarily supplied by their members.

Operating Rights

Licensing is the result of Congress' desire that entry into for-hire transportation in interstate or foreign commerce be monitored in order to foster a balanced, stable, and responsive national system of surface transportation upon which the public may depend. Entry control encourages carrier investments in operations earning public confidence through regular, reliable service on a daily basis. Hence, the carriers may know that, as long as they serve the public satisfactorily, their profits will be secure from the unwarranted or destructive competition evident in the past and in nonregulated livestock hauling today. Entry control is the best, and most practicable and effective means yet devised by which regulated carriers may be required to fulfill their common carrier obligations to the public. This requirement is imposed on individual carriers through the medium of complaint, investigation, and petition cases, and more generally through broad investigatory rule-making proceedings.

Interstate trucking is open either to expanding services and operations, new entrants, or reasonable competition. License requests, most of which relate to motor truck operations, account for more than 80 percent of our formal cases. During the 1973 fiscal year, 5,240 applications for motor carrier operating authority were filed, and 4,299 were granted in whole or in part. In 507 instances the applicant was issued an initial license authorizing it, for the first time, to provide service to the public as a for-hire regulated carrier. Our licensing function is thus directed only to the elimination of

⁴ *Middle Atlantic Conference—Agreement*, 341 ICC 164.

the unsafe or unfit operator and to the prevention of economically harmful and wasteful competition.

Performance reports and term certificates—In several recent cases, limited-term certificates were authorized to be issued subject to the filing of annual performance reports to help us determine whether actual performance comports with the operations proposed by a carrier and found to be needed by the shipping public. Requiring more explicit detail than prescribed in earlier decisions, we have directed the various carriers to (a) identify and describe each shipment moving pursuant to the grant and indicate their transit times, (b) describe each instance when service is refused or not performed on request, and (c) include verified statements from shippers stating clearly their satisfaction or dissatisfaction with the service received. This type of certificate is generally for a three-year term, and the holder must normally request permanent extension of the authority within three months of the expiration date. In addition, the Commission has retained jurisdiction to delete, modify, or impose further terms, conditions, and limitations as may in the future be required by the public convenience and necessity or to ensure that the carrier's operations comport with the type of service the supporting shippers are shown on the record to require.¹

A limited-term permit was authorized to be issued to a motor contract carrier subject to a requirement that the carrier demonstrate that its future operations are being conducted in compliance with basic principles underlying contract carriage. This unusual action was deemed necessary in light of the history of expansion of the carrier's operations, its affiliation with other contract carriers, and the relationships of the diverse shippers it served.²

Continuous and adequate service—small shipments—The Commission's successful attempts in the operating rights area to resolve certain of the problems faced by shippers of small shipments are deserving of mention. Last year in one of the largest records ever made in such proceedings, involving 10 applications for extensive operating authority between the southeast and the southwest, we granted three of the applications, and denied the remainder. This year, on appeal, we

¹ See *D & W Refrig. LTL Serv., Inc., Com. Car. Applic.*, 117 MCC 846; and *Trans West. Exp. Inc., Ext.—Seattle-Portland*, 118 MCC 1.

² *Crete Car. Corp.—Maremont Contr.—Auto Parts*, 117 MCC 634.

granted another, concluding that this applicant was the only carrier able to provide responsive service to shippers in Arkansas, Kansas, Missouri, and Oklahoma, on traffic to and from Atlanta and Birmingham. A denial of the application would have forced shippers in this four-state area to rely on service already found to be inadequate.³ On the other hand, shippers' mere desire for single-line motor service is insufficient to warrant the grant of authority in the absence of a showing of inadequacy in available joint-line service.⁴

Contract carriers—During the past year, the Commission rendered several significant decisions dealing with contract carrier operations. A regulation was promulgated defining a contract shipper as the person who controls the transportation. The term was found to refer to the actual shipper rather than to an intermediary. Such a shipper may be normally either the consignor or consignee, but must be one or the other. Although payment of transportation charges evinces that the person who pays is the one who controls the transportation, and such person is presumed to be the shipper, this presumption is rebuttable by evidence demonstrating that a person not paying the transportation charges controls the selection of the carrier and the routing of the shipment.⁵

An ocean common carrier tendering traffic in containers or trailers having a prior or subsequent movement by water was found to be an improper contract shipper because its only interest in the cargo was in providing a connecting water service. The proposed service was found to be that of a common carrier by motor vehicle as defined in the Act.⁶ In another case, however, the applicant's existing contract carrier authority was limited to service under a contract for a named meat processor. In order to be able to reject inferior shipments, the shipper referred the applicant to a broker of packinghouse products. This was found to be lawful because the arrangement with the broker was only to serve shipper's purpose and because the shipper guaranteed the broker's payment of the freight charges. The evidence was sufficient to

³ *Jones Truck Lines, Inc., Extension—Atlanta, Ga.*, 117 MCC 586, modifying *Herrin Transp. Co., Extension—Atlanta, Ga.*, 114 MCC 571 (1971).

⁴ *Midwestern Express, Inc., Extension—Paper*, 117 MCC 809, and *Midwestern Express, Inc., Extension—Bossier City, La.*, 117 MCC 886.

⁵ *Administrative Ruling No. 76*, 117 MCC 433.

⁶ *Service Transfer, Inc., Contract Carrier Application*, 117 MCC 506.

rebut the presumption that the broker exercised such a degree of control as to be designated the shipper.⁷

Contract carriers do not hold themselves out to serve the general public, and instead are required to serve only a limited number of shippers. Factors to be considered in determining what constitutes a limited number of shippers include: the classes of shippers for which the carrier operates, the scope of the territory in which the operation will be conducted, the similarity in the services proposed and those presently being performed for other shippers, and the degree of specialization required by the nature of the business of the involved shippers. When this issue arose this year, it was found that another important factor involves the historical manner in which the applicant carrier's business has grown and developed. When the carrier is only in business for a few years and the number of its contracting shippers has grown rapidly, the natural impression created is that the carrier is holding itself out to serve the general public, contrary to the nature of contract carriage. A different conclusion was found warranted where the applicant had been in business for 10 years, and the number of its contracting shippers had grown slowly until it reached six.⁸

Related to the issue of what constitutes a limited number of shippers was a group of cases involving common control among several contract carriers. Three separate entities, sharing certain common aspects of history, ownership, control, and legal representation, already had authority or sought to serve more than 20 shippers under contract. It was concluded that the apparent relationship between the carriers raised grave doubts as to the applicant's status as a contract carrier; that a rapid expansion of a contract carrier's operation must be viewed as a general holding out of service inconsistent with the nature of contract carriage; and that the total number of shippers to be served by affiliated or commonly controlled contract carriers must be considered in determining whether an applicant serves a limited number of shippers. It was noted that such control as affects the public interest could be found, not only from operational control, but also from a minimal stock interest, a family relationship, the nature of a stock transfer or acquisition, prior carrier-shipper-counsel business

⁷ *P.C.M. Trucking, Inc., Extension—Allentown, Pa.*, 117 MCC 201.

⁸ *Prang Trucking Co., Inc., Ext.—New Brunswick, N. J.*, 117 MCC 38.

relationship, and the continued business dealings among the persons and parties involved.⁹

Interpretations of operating rights—In the area of commodity descriptions, we determined the scope of groceries and grocery store supplies, food products, scrap materials, and carbonated or noncarbonated beverages, and also resolved disputes with regard to certain territorial descriptions.¹⁰ Authority to transport stock-in-trade of drug stores was found neither to be ambiguous nor to allow the transportation of commodities which were not, and were not intended to become, part of the stock in trade of a drug store.¹¹

In another case, we considered and distinguished the terms "mixed loads" and "mixed shipments." A mixed shipment restriction requires that both classes of commodities be tendered by the same shipper, on the same bill of lading, to the same consignee, but the shipment may consist of more than a single truckload. The carrier may transport a full truckload of one commodity and a full or partial truckload of the other commodity, so long as the two commodities and a single shipment are involved. Under a mixed load restriction, however, each truckload must contain both types of commodities, which may be tendered by the same shipper or by different shippers. The carrier may accept a shipment consisting entirely of one commodity from one shipper, and another shipment consisting entirely of the other commodity from a second shipper, so long as both types of commodities are combined and move at the same time on the same truck.¹²

It was determined that a motor carrier authorized to transport passenger automobiles is thereby authorized to transport vehicles meant to carry passengers, but which also have provisions for cargo either in an open space or an enclosed area, such as the type of vehicles commonly known as the "Volkswagon Microbus", "Ford Econoline", and "Econovan", which are considered to be the same as station wagons.¹³ By contrast, a motor home may not be transported pursuant to a carrier's authority to transport "automobiles, trucks, chassis, or buses". The latter items have long been found to have specific and well-defined meanings and their essential

⁹ *Interstate Contr. Car. Corp. Ext.—Confectionaries*, 117 MCC 396.

¹⁰ *Hilt Truck Line, Inc.—Investigation of Operations*, 117 MCC 9.

¹¹ *North Central Truck Lines, Inc., Invest. & Revoca.*, 117 MCC 180.

¹² *East Express, Inc., Ext.—High Point*, 117 MCC 383.

¹³ *Aaacon Auto Transp.—Petition for Declaratory Order*, 117 MCC 402.

uses are different from those of a motor home. On the other hand, carriers authorized to transport motor vehicles or recreational vehicles may also transport motor homes.¹⁴

Interpretation of superhighway rules—We had an opportunity to interpret and clarify on a broad scale the regulations in *Superhighway Rules—Motor Common Carriers of Property*, 49 CFR 1042.3, dealing with the extent to which certificated regular-route motor common carriers of property may, in the absence of specific operating authority, traverse and serve points on the Interstate Highway System and other superhighways. Pursuant to a petition for interpretation filed jointly by two motor common carriers,¹⁵ the Commission (1) provided an extensive interpretation and clarification of the so-called “25-mile” and “intermediate-point service” provisions of the Superhighway Rules, (2) resolved numerous specific issues relating to the Superhighway Rules, and (3) denied the petition to the extent it proposed or suggested interpretations inconsistent with those set forth in the report.

Of the numerous interpretations and clarifications, perhaps the most significant concerns the permissible utilization of “connecting” or “access” non-superhighways extending between the carrier’s authorized underlying regular service routes and the superhighways. In this context we stated that, as a general rule of thumb, the operation over the “connecting”/non-superhighway may not constitute more than 20 percent of the total over-the-road distance traversed between the point of departure and the point of return to the authorized underlying regular service route over the superhighway-non-superhighway “connecting” highway route. The findings in *Property Motor Carriers Superhighway Rules*, *supra*, especially as they related to the described “20-percent rule of thumb,” were further clarified in a number of subsequent decisions.¹⁶

Commercial zones and terminal areas.—In a somewhat unusual situation, the population of Wilmington, Del., had decreased to the point where its commercial zone would, under applicable rules, have diminished. We held, however, that the population of any municipality shall be deemed to be the

¹⁴ *Nationwide—Petition For Declaratory Order*, 118 MCC 468.

¹⁵ *Property Motor Carrier Superhighway Rules*, 117 MCC 119.

¹⁶ *Burggrabe Truck Lines, Inc. v. Beaufort Transfer*, 117 MCC 567, *Lafayette, Ind., Superhighway Operations*, 117 MCC 660; *Great Lakes Exp. Co., Et Al. v. National Transit*, 117 MCC 735.

highest figure shown for that municipality in any decennial census since (and including) the 1940 decennial census, for the purposes of defining the commercial zone of that municipality. Although the population of Wilmington had decreased in recent years, we recognized that once a commercial zone is established, businesses within that zone rely upon the base municipality for services and that the commercial unit of the area will not necessarily be affected by a decrease in the population of the base municipality with a simultaneous increase in the population of outlying areas.¹⁷

Household Goods

As reported in our last annual report, an individual Commissioner has been delegated primary responsibility for the coordination and general oversight of the Commission's activity in the household goods area. This recognized that in the shipment of personal effects and household goods the general consumer encounters a more direct transportation impact than do other users of surface carriers.

As complaints from householders continued to increase concerning claims for loss and damage, delays in providing service, rates, charges, and underestimates, the Commission increased the enforcement of its rules relating to the transportation of household goods, considered proposed new rules and adopted new regulations directed at terminating the practices which gave rise to these consumer complaints.

The Commission took the following action toward providing the household goods shipper-consumer additional assistance and protection.

(1) Concluded six investigation proceedings, four of which had been instituted during fiscal year 1972, involving carriers who were the subject of a substantial number of consumer complaints. These resulted in mandatory orders requiring the discontinuance of violations and the partial suspension of the carriers' authority for periods ranging from 15 to 45 days.¹

¹⁷ *Commercial Zones and Terminal Areas*, 115 MCC 882.

¹ These proceedings have been docketed as No. MC-C-7775, *Aero Mayflower Transit Company, Inc.*,—Investigation and Revocation of Certificates; No. MC-C-7777, *Allied Van Lines, Inc.*,—Investigation and Revocation of Certificates; No. MC-C-7090, *Red Ball Van Lines, Inc.*,—Investigation and Revocation of Certificates; No. MC-C-7933, *Bekins Van Lines, Co.*,—Investigation and Revocation of Certificates; No. *American Red Transit Company, Inc.*,—Investigation and Revocation of Certificates, and No. *National Van Lines, Inc.*,—Investigation and Revocation of Certificates.

Additionally, criminal penalties and civil forfeitures were assessed and collected against certain carriers for other violations.

(2) Recommended to Congress last fiscal year that it be given authority and sufficient funds to adjudicate loss and damage claims² and legislation is now pending before this session.³

(3) Continued the program whereby consumers shipping their household goods are furnished a questionnaire to be completed at the conclusion of their move to advise the Commission whether their move was satisfactory or not. Information compiled as a result of these questionnaires is being made available to the public to assist in making evaluations of the service being provided by the carriers.

(4) Issued Public Advisory No. 4, *Lost or Damaged Household Goods, Prevention and Recovery*, to advise shippers what to expect from movers, how to prevent much unnecessary damage, and what to do when goods are lost or damaged.

(5) Adopted regulations which permit household goods carriers to utilize established credit card systems to assist consumers in the payment of their transportation charges.⁴

(6) Activated within the Bureau of Operations a Household Goods Agency Unit to receive, review, and retain the records filed with the Commission by motor carriers' employing agents.⁵ During fiscal year 1973, this unit received and processed 10,275 filings from 91 principal carriers relating to 6,850 different agents. When fully operational, this unit will facilitate the efforts of the Commission to require that authorized carriers employ only those agents who are properly qualified and are financially responsible and will assist the industry in identifying and eliminating those agents who are unfit and who abuse and disadvantage shippers.

(7) Quarterly reports of the carriers' over and underestimates were substantially revised to identify the salesmen consistently giving inaccurate estimates and the carrier's agent employing such salesmen. In addition to identification of the

² *Loss and Damage Claims*, 340 ICC 515 (Ex Parte No. 263).

³ Senate Bills S.2011 and S.2012 and House Bills H.R.8325 and H.R.8326.

⁴ Practices of Motor Common Carriers of Household Goods, 118 MCC 97 (Ex Parte No. MC-19 (Sub-No. 16)).

⁵ *Household Goods—Agency Relationships*, 115 MCC 628 (Ex Parte No. MC-19 (Sub-No. 9)).

inaccurate estimator, this will assist the Commission in the review of agency fitness.⁶

(8) Employed four Transportation Consumer Specialists who were subsequently specially trained to assist shippers who require help in the transportation of their household goods. During fiscal year 1973 these four employees received and handled 2,651 complaints from the public. This program has been so successful that additional positions will be added in fiscal year 1974 and others requested for fiscal year 1975. A total of at least 20 such positions can be fully utilized in the interest of greater consumer protection.

(9) As a further aid to consumers, the Commission presently has under consideration the adoption of regulations which would require each household goods carrier to disclose to shippers specific information relating to the carrier's performance record and claims processing history⁷ to make it possible for each shipper to evaluate the quality of service he may anticipate.

(10) Also under consideration in other proceedings are the adoption of regulations to prohibit the practices of carriers which improperly limit their liability to shippers⁸ and the adoption of consumer protection regulations such as those now applying to motor carriers to be made applicable to freight forwarders engaged in the transportation of household goods.⁹

Active surveillance of the household goods moving industry is continuing on a day-to-day basis, as indicated by our warning to carriers who may be engaging in overbooking practices.¹⁰

Motor Carriers—Passenger

The financial condition of the intercity bus industry remained strong during the 1973 fiscal year. Total revenues of class I carriers for calendar 1972 had reached an all-time high

⁶ Revised Form BOp 101, Quarterly Report of Underestimates and Overestimates, effective November 20, 1972.

⁷ *Practices of Motor Common Carriers of Household Goods*, 118 MCC 178 (Ex Parte No. MC-199 (Sub-No. 19)).

⁸ Ex Parte No. MC-19 (Sub-No. 20) *Practices of Motor Common Carriers of Household Goods*, (Limitation of Liability).

⁹ FF-C-51, *Freight Forwarders of Household Goods—The Need For Greater Regulation*.

¹⁰ Press Release No. dated June 27, 1973, ICC ISSUES WARNING TO MOVERS WHO FAIL TO PICK UP SHIPMENTS.

due principally to substantial revenue gains from package express and charter services. Nonetheless, industry revenues from regular-route passenger service, regular-route traffic, net operating revenue, and net income after taxes registered slight declines from the previous calendar year, due principally to a prolonged strike against one of the major carriers in the Middle Atlantic region which began in April 1972 and continued through fiscal 1973.

Forces have emerged, largely outside the control of the industry or the Commission, which lend uncertainty to the industry's financial prospects for the coming fiscal year. At the close of fiscal 1973, the industry began to feel the impact of the impending fuel shortage in the form of higher fuel prices.

A second factor is the increasing competition from Amtrak, which has already necessitated bus fare reductions on some important routes. A third factor is the strike referred to earlier which remains unsettled.

Several innovations in technology, fares, and service have been initiated. New pollution-free, turbine-powered buses were in service this year. It is expected these will provide long-run cost and safety benefits as well as elimination of substantial air and noise pollution. In early fiscal 1973, a "travel pass" was inaugurated, allowing the purchaser unlimited travel for a period of 60 days. A premium "first-bus-out" package express service was instituted. There are now over 100 "wide" (102-inch) buses in intercity service where state law permits.

Operating Rights

During the past year further consideration was given to the problems involved in loss and damage to the baggage of bus passengers. Under present law a passenger, without the payment of a separate charge, may recover a maximum of \$50 from a regulated bus company for loss or damage to baggage; but this amount may be increased by the declaration of an excess valuation on the baggage and the payment of an additional charge which varies according to the maximum liability limits in the carrier's tariffs. We adopted regulations, not yet effective, that would require bus operators (1) to post large signs explaining baggage liability procedures at specified points which would be conspicuous to passengers, and (2) to permit declarations of baggage values in excess of a free baggage allowance limitation at baggage counters until 15

minutes before scheduled boarding time, and at the side of the bus during boarding. We also initiated a further inquiry to explore whether the \$50 baggage liability limitation is adequate to meet the need of the riding public or whether new regulations should be adopted requiring a free allowance limitation fixed at \$250 or some other figure.¹

One new carrier proposed an operation specially tailored to meet the distinct needs of the Spanish-speaking community in Chicago desiring economical and expeditious service between that city and the United States-Mexico port of entry at Laredo, Tex. While the carrier would not provide restrooms, luxury seating, or substantial luggage space, it did propose to offer free door-to-door pickup, faster service (by from one to seven hours), and a Spanish-speaking driver attentive to the needs of the passengers. The applicant's proposal was deemed to represent a new type of service not presently available from existing carriers, and we granted the application.²

Another carrier proposed a charter operation charging a flat rate for a vehicle hired by groups of passengers referred by airlines and assembled by the applicant. We concluded that in these particular circumstances such operations could not be classified as a charter service, since a charter group must have some community of interest other than direct and expeditious transportation between given points. The application was denied because of lack of user testimony, past unauthorized operations, and availability of other services.³

When a limousine operator sought authority to enlarge the size limitations on the number of passengers it may transport, from 11 to 20 passengers, the application was denied. The evidence did not support a finding that the modification of the passenger limitation would result in economies and needed improvements in the applicant's existing services, which finding is necessary to support the modification where no public support is offered. As to customer convenience, we found that the use of larger vehicles would entail more rather than less waiting by passengers to load the vehicles fully, and, therefore, would likely be of no benefit to the public. It was further noted that the 20-passenger vehicles proposed to be used would be more like small buses than limousines, and that

¹ *Limitation of Free Baggage Allowance—Greyhound*, 115 MCC 566.

² *Transportes Hispanos, Inc., Com. Car. Applic.*, 117 MCC 894.

³ *Airfield Service Co. Ext.—Charter Operations*, 117 MCC 165.

it would thus appear to be difficult for applicant to provide the door-to-door service which was specified in its certificate.⁴

In consolidated proceedings involving an investigation to determine if a passenger carrier was maintaining reasonable and adequate service (as required by its certificate and the statute) and a proposed transfer of the considered operating rights, we found that the carrier had effectively ceased operations. Most of the carrier's business involved intrastate commerce, and this aspect of it had been taken over by a local transportation district. The carrier was left, however, with its interstate regular-route certificate which allowed incidental charter operation. Its request to transfer the certificate including the valuable incidental charter authority was denied because of the dormancy of the certificate, and because of the fact that incidental charter rights are not severable from the underlying authority and do not accrue unless the carrier is actually performing interstate regular-route operations. The takeover of the carrier's physical assets and local operations by the transportation district did not affect the carrier's obligation to maintain service to the public. The carrier was ordered to institute reasonably continuous and adequate service or face the revocation of its certificate.⁵

Pursuant to a passenger carrier's request for a declaratory order, we reaffirmed the principle that the substituted motor-for-air exemption applies only if the passengers have been grounded and (1) the air carrier bears the expense of substitute transportation, and (2) there exists an emergency situation, such as equipment failure or adverse weather conditions.⁶ A complaint by a limousine operator, alleging that a motorbus operation was in fact a limousine type of service, which was prohibited by its certificate, was dismissed. The use of more vehicles in an express type of service did not transform its operations into a limousine service (which involves non-scheduled, door-to-door luxury service).⁷ Recognizing among other things, the need of the public for a viable local transit operation, we granted a carrier which appeared to be successfully providing such service authority to perform interstate charter operations.⁸

⁴ *Salem Transp. Co., Inc., Ext.—Additional Passengers*, 117 MCC 405.

⁵ *Estacada-Mollala Stages, Inc.—Revocation of Certif.*, 118 MCC 115.

⁶ *Portland Airport—Petition for Declaratory Order*, 118 MCC 45.

⁷ *Connecticut Limousine Service, Inc. v. Wilder*, 117 MCC 684.

⁸ *Western Mass. Bus Lines, Inc., Com. Car. Applic.*, 118 MCC 74.

Rates

In *Notice of Increases in Freight Rates and Passenger Fares*¹ the Commission initiated a proceeding to consider changes in the procedures for general increased rates, fares, and charges (see page 15.) In addition to the general requirements, the proposed rules would require changes in the rules governing notice of fare increases which must be displayed in buses. A copy would have to be furnished to the principal government official of each affected community and to local newspapers. Moreover, the carriers would have to furnish the principal government official a complete copy of the statement of justification for the proposal.

Freight Forwarders

While freight forwarders have played an essential role in the handling of small shipments, they have failed to keep pace with the general economic expansion of the nation. During the long economic expansion period of 1943-1972, the number of shipments and tons handled by class A freight forwarders declined, respectively, 46.5 and 23.9 percent. Despite modernization efforts by the industry, forwarders' relative share of the total small shipment market has declined from almost five percent in 1950 to well under four percent at present. Dependence on other carriers, relocation of shippers to areas beyond the commercial zones, increased competition, and inability to negotiate rates with railroads have combined to make forwarding, at best, a static industry. A counterbalancing industry trend which may tend to offset, to some extent, the small shipment traffic decline has been the increased handling of used household goods. This trend, which began with the 1968 decision in *Routed Thru-Pac, Inc., Freight Forwarder Application*, 332 I.C.C. 352, has been accelerating recently because of the substantial number of operating authorities granted by the Commission to freight forwarders to handle this particular type of traffic.

The Commission has supported proposed legislation which would provide for freight forwarder payments to the railroads on the basis of negotiated rather than published rates.

Several years ago we considered in great detail conditions within the forwarding industry; made certain legislative rec-

¹ Ex Parte No. 286, 341 ICC 589.

ommendations; initiated an internal review of forwarder accounting and reporting requirements; and instituted a rulemaking proceeding to consider whether we should expand the terminal areas within which forwarders may perform motor carrier operations using their own equipment.¹ The rulemaking proceeding was recently concluded, and we found that modification of terminal areas is not warranted. Reaffirming our jurisdiction to take such action if necessary and warranted by existing circumstances, we, nevertheless, found that the proposal would alter the traditional concept of terminal area operations. Terminal area services are performed within a single community, not between communities; and the forwarders who supported the proposed rule did not satisfactorily establish that broadened terminal areas of up to 150 miles would maintain the essentially intracommunity nature of terminal area operations. We concluded that our long-established policy of fixing a carrier's terminal area at a municipality as co-extensive with the commercial zone of such municipality should not be changed. In this type of proceeding, the determining factors are based on existing geographical, political, and demographic conditions, and an individual need for modification of the terminal area is not a proper basis for such action in the absence of a legislative directive to do so.²

During the past year, the role of the freight forwarder has been the subject of clarification and expansion. (See also *Intermodal Services*, page 47). We considered the lawfulness of household goods transportation arranged by numerous freight forwarders of general commodities under contract with certificated motor common carriers of household goods ostensibly enabled by section 409(a) of the Interstate Commerce Act. The forwarders' arrangements allowed motor carriers to perform all necessary functions. We found that the forwarders handled household goods very differently from the manner in which their general commodity traffic was handled so as to establish that the household goods were not handled in the "ordinary and usual course of (their) undertaking". Rather, the transportation of household goods constituted a separate service, with the purported carrier (the forwarder) so insulated from any real or substantial control or

¹ *Investigation into Status of Freight Forwarders*, 339 ICC 711.

² *Scope of Freight Forwarder Terminal Areas*, 343 ICC 507.

responsibility over the movement as to negate its forwarder status in a manner which circumvents its nondelegable forwarder responsibility in violation of section 404 of the Act. In view of the issuance of our declaratory order in this proceeding and other factors such as the limited segments of the industry named as respondents, no cease and desist orders were issued and the investigation was discontinued.³

Water Carriers

With the exception of Atlantic and Gulf Coast carriers, the water carrier industry has attained increases in both freight revenues and revenue-ton miles. Freight revenues rose approximately 21 percent and revenue-ton miles by 18 percent in calendar 1972. The financial condition of water carriers is generally good. The outlook for continued growth is promising.

The opening of the Arkansas River navigation project stimulated traffic on the entire Mississippi River System. Additionally, the advent of LASH, SEABEE, and Mini-Ship operations made significant contributions to traffic, particularly on the Mississippi River. The substantial increase in export grain also has contributed to increased traffic.

Although traffic on the inland waterways continues to rise, there has been no serious shortage of equipment except during the grain harvesting seasons. Another problem area involves congestion at locks on the Mississippi, Illinois, and Ohio Rivers.

The National Water Commission in its report to the President and the Congress has recommended modest user charges and significant changes in cost sharing for the construction of inland navigation projects. These recommendations, if adopted, will likely result in curtailing the construction of new navigation projects. Environmental considerations also are affecting the initiation and completion of navigation projects.

In two decisions this year, the Commission determined that, in view of the likelihood that traffic on the Mississippi and its tributaries will increase substantially due to increases in population and industry and the development of LASH operations, additional certificated water carrier service is required. Three water carriers proposed to extend their

³ *Services of Forwarders of Household Goods*, 117 MCC 523.

regulated transportation service in areas they presently serve in movements of bulk commodities, which under section 303(b) of the Act are exempt from economic regulation when not more than three bulk commodities are carried in a single tow. As a result of the strictures of section 303(b), the operations of each carrier had become inefficient and uneconomical, and they were not able to compete equally with protesting carriers which collectively are authorized to conduct operations in the territories applicants sought to serve. We found that, while opposing carriers appear able to perform an adequate service in the transportation of regulated commodities on the Mississippi, the desirability of a more efficient and economical service justifies grants of these applications. In view of the projected growth of regulated traffic on the Mississippi, it did not appear that the applicants' participation in the transportation of such traffic would have an appreciable effect on the operations of existing carriers.¹

Express Companies

Once one of the nation's premier intercity common carriers of parcel-size shipments, REA Express, Inc. (REA) has fallen upon difficult times as the volume of freight it has carried—especially over surface routes—has continued to decline. In 1965, REA handled 1.8 million tons of surface shipments. By 1972 its volume had declined over 68 percent. Managerial disruptions, changing national distribution patterns, service contractions, labor disputes, increased competition, and severe financial difficulties appear to be the principal contributors to the decline in REA's business.

Even air express tonnage, although it increased by approximately 5.4 percent in calendar 1972 over 1971, is still less than that recorded in 1965. While air express tonnage rose, the number of air express shipments declined by 4.3 percent during the 1971–72 period.

As noted in our 86th Annual Report, the long term outlook for REA is not auspicious.

Oil Pipelines

Interstate pipeline companies reporting to the Commission

¹ *Sioux City and New Orleans Barge Ext.—Miss. River*, 343 ICC 412; *Hennepin Towing Co. Ext.—Upper Mississippi River*, 343 ICC 422.

continued the uninterrupted growth in production and revenues which has characterized their operations for several years. In the first three quarters of fiscal year 1973, 87 pipeline companies with annual operating revenues of more than \$500,000 reported that transportation revenues increased 9.2 percent from the equivalent period in 1972. The number of barrels of crude oil and products originated on line and received from connections by these carriers during the nine-month period also rose 9.2 percent from the comparable fiscal 1972 period.

Crude oil gathering and truck line mileage fell four percent in calendar 1972. Almost half of this reduction was accounted for by one carrier which was required by state environmental authorities to remove more than 2,200 miles of pipeline from service. Contrasting this reduction in crude-oil lines was the addition of approximately 2,800 miles of products pipeline. Indications are that products pipeline mileage has expanded by nearly 8,700 miles in the past three years.

The future is very promising for the pipeline industry. According to the latest estimates of the Department of the Interior, the daily demand for oil in the United States is expected to rise from 16.4 million barrels a day to 23.2 million between now and 1980, a 41.5-percent increase. As this demand grows the pipeline companies will have an opportunity to increase their revenues and earnings by transporting larger quantities of oil.

Intermodal Services

Operating Rights

Following the policy enunciated in *Emery Air Freight Corp. Freight Forwarder Applic.*, 339 ICC 17, we have continued to encourage development and expansion of intermodal services through the grant of new operating authority. Both this Commission and the courts had occasion to clarify the apportionment of regulatory jurisdiction between this agency and the Federal Maritime Commission (FMC) this year. In one instance we granted a freight forwarder permit to enable the performance of a complete service in the forwarding of international containerized shipments in connection with the applicant's existing NVO (non-vessel operating water common carrier) operations. It was pointed out that the applicant

would remain subject to regulation by the FMC when utilizing the services of an ocean carrier but would become subject to our regulation as a part IV forwarder when it employs the services of regulated surface rail, water, or motor common carriers.¹

Acquisition and Control

Intermodal acquisitions, particularly of water carriers, continue to require Commission consideration. In *Southern Ry. Co. Section 5(15) Application*, 342 ICC 416, a railroad sought authorization to control a coal-carrying barge line which was to operate as a contract carrier from two Ohio River points to Sheffield, Ala. Section 5(14) of the Act generally precludes a railroad from acquiring a common carrier by water "operating through the Panama Canal or elsewhere" if the two carriers may or do compete for traffic. The Commission found that the Southern Railway would not be in competition with its proposed water carrier subsidiary, and that the control would not prevent the water carrier from being operated in the interest of the public.

In a similar proceeding, *Katy Industries, Inc.—Control—Cenac Towing Co., Inc.*, 342 ICC 666, Katy Industries, which controls the Missouri-Kansas-Texas Railroad Company, sought to control Cenac Towing, a contract carrier by water. An administrative law judge found, and the Commission later adopted the finding, that approval is not required because Cenac, conducting only exempt operations, is not a carrier within the meaning of section 5(13), and the rail carrier and water carrier were not competitive with each other under section 5(14). Another proceeding involving intermodal acquisitions is Finance Docket No. 27260, *MVR Holding Company, Inc.—Control—Mohassuk Valley Railroad*, wherein a holding company affiliated with a motor carrier is seeking to acquire a short-line rail carrier.

Rates and Tariffs

We reaffirmed in principle the lawfulness of joint rates between carriers subject to parts I, II, and III of the Act and ocean common carriers regulated by the FMC, but declined to adopt the general tariff rules proposed in the prior report,

¹ *CTI-Container Transport Internat., Frt. Forwarder Applic.*, 341 ICC 169.

337 I.C.C. 625. Recognizing our lack of experience with joint intermodal, international rates, we elected to continue our policy of accepting such tariffs on an individual basis pursuant to special permission. In so doing, we explained that the parties to such tariffs are free to follow the general tariff rules set forth in the prior report, but emphasized that such rules are by no means exclusive.² Recently, however, in view of increased filings of joint intermodal rates and hence our greater experience in the area, we reopened the proceeding to consider further the need for issuing a general rule regarding rates on this type of traffic.

As the result of the decision in these two proceedings, there are approximately 55 individual mini-landbridge effective tariffs on file with the Commission; and approximately ten more in the pipeline area. These mini-landbridge tariffs generally apply between ports in the United Kingdom, Ireland, Europe, Scandinavia, and the Mediterranean Sea on the one hand; and, U.S. Gulf and West Coast Ports on the other. They also apply between ports in the Far East and U.S. Atlantic and Gulf Ports.

Generally speaking, there has been little if any opposition to these mini-landbridge tariffs; however, recently the Port of New Orleans and Houston Port Authority have expressed concern over these tariffs. Houston Port Authority filed a telegram protesting the extension of tariff circular rule relief, however, it was received too late for handling. Likewise, the Port of New Orleans protested any granting of special permission authority to establish six new mini-landbridge tariffs. The matter was referred to Division 2 for initial action, and the sought permission was subsequently granted. Apparently, the reason for concern of the port authorities is that the traffic no longer moves via the all-water route; and, accordingly, the traffic does not move over their pier facilities. However, the proper forum for objection was protest against the tariffs when filed and not against the request to use a certain form of publication.

The Supreme Court³ affirmed the finding of a lower court⁴ that when an ocean carrier includes motor carrier pickup

² *International Joint Rates and Through Routes*, 341 ICC 246.

³ *Interstate Commerce Commission v. IML SeaTransit, Ltd.*, 409 U.S. 1002, pet. reh. den., 409 U.S. 1118.

⁴ *IML SeaTransit Ltd. v. United States*, 343 F. Supp. 32 (N.D. Calif. 1972), reversing *IML SeaTransit, Ltd.—Investigation of Operation*, 339 ICC 634.

and delivery service at the port in its all-water rate, an FMC-regulated NVO utilizing such transportation does not thereby acquire status as a freight forwarder subject to regulation under part IV of the Act. The court reasoned that inasmuch as the underlying ocean carrier, rather than the NVO, arranges for and pays the motor carrier, the NVO does not "utilize" a carrier subject to parts I, II, or III of the Act within the meaning of section 402 (a)(5)(C), even though its operation may otherwise meet the statutory definition of freight forwarding.

Two other cases during the past year, both involving containerized freight, merit comment. As noted in an earlier section, it was determined that an ocean carrier is not a lawful contracting shipper and cannot properly support a contract carrier application. Rather, the relationship between an ocean carrier and a motor carrier was found to be that of connecting carriers, and the proposed service to be common carriage.⁵ A regular-route motor common carrier was granted broad authority to transport containerized freight and empty containers between ports of entry located on the West Coast and points in the continental United States, thereby enabling greater flexibility in the handling of international containerized shipments.⁶

Conglomerates

The entrance of nontransportation enterprises into the transportation picture continues to be a matter of concern to the Commission. The entry in a number of instances has been through the acquisition of control of one carrier, a matter over which the Commission has no jurisdiction. As noted in the previous annual report, legislation which would give the Commission more jurisdiction over holding company acquisitions of rail and motor carriers has been introduced in the Congress. The proposed legislation would require Commission approval of acquisition by noncarriers of carriers where operating revenues exceed \$5 million for railroads and \$1 million for other carriers. The legislation also would enable the Commission to consider transactions between a carrier and its affiliate to determine whether as a result of the acquisition the carrier's ability to meet its transportation needs would be

⁵ *Service Transfer, Inc., Contract Carrier Application*, 117 MCC 506.

⁶ *IML Freight, Inc., Ext.—Containerized Freight*, 118 MCC 31.

impaired. The ease with which carrier assets or carrier credit might be used or carrier facilities encumbered for noncarrier purposes stands as a threat to sound conditions in transportation, but it entails matters presently outside the Commission's jurisdiction. We are concerned with the fact that carrier assets are being diverted to other than carrier purposes, and we feel that a correction of the situation is a necessity.

In the past fiscal year, two conglomerate proceedings were of special interest. One was Finance Docket No. 26167, *Union Mechling Corp.—Merger—Union Barge Line Corp. and A.L. Mechling Barge Lines, Inc.*, Union Mechling, a subsidiary of the Dravo Corp., was formed for the express purpose of taking over the two other water carriers. The second proceeding was No. MC-F-11730, *Qualpeco Transportation, Inc.—Control—M & M Transportation Company et al.*, embracing Finance Docket No. 27311, *Qualpeco Transportation, Inc.—Securities* in which Qualpeco, a holding company, was organized for the sole purpose of acquiring three motor carriers from U.S. Industries, Inc., a large conglomerate. Both proceedings were approved by the Commission.

Securities

In fiscal 1973 211 applications and 22 petitions were filed under sections 20a and 214 of the Interstate Commerce Act by rail and motor carriers seeking authorization to issue securities or assume obligations or liability in respect to the securities of others, of which 174 applications and 22 petitions were disposed of during the year. Little delay is incurred in securities proceedings, as most require expedited action.

The Commission has been concerned about the widespread use of various financial transactions which traditionally have not been regarded as securities but which can result in carriers incurring substantial debt. There also is a need to update and make full disclosure by carriers in their public offerings more effective. Accordingly, in the previous fiscal year, the Commission instituted such proceedings in Ex Parte No. 275, *Expanded Definition of Term "Securities"*, and Ex Parte No. 279, *Securities Regulations—Public Offerings*. The first was designed to explore the possibility of expanding the term "securities" to include financing not traditionally considered as "securities" within the meaning of the section 20a(2) definition. The second was to set definitive terms of what should be included in a public

prospectus in order to protect the investing public through adequate notice and disclosure when a carrier offers its securities for sale to investors. Both matters are receiving active consideration.

There also is serious concern over the ability of carriers to obtain reasonable and sufficient financing, particularly in the case of rail carriers. Aside from the railroads in reorganization, the industry in general has been affected by the adverse publicity of the rail carriers in reorganization. The Commission requires railroad financing to be through competitive bidding, unless an exemption is granted. Seven such exemption applications were filed this fiscal year. Cited generally as a basis is the need to educate potential investors on the merits of the particular securities issue and then to negotiate with them. Also of concern is the prospect that the offering otherwise would fail as less informed investors would shun it altogether. It might be expected that protests would be filed as other investors seek an opportunity to participate in the non-competitive offerings, but no protests were received to such proposals.

Another indication of the problems of railroads in obtaining adequate financing is the growing use of equipment trust certificates for no down payment purchases. Traditionally, this certificate has been a highly desirable rail security, since title to the financed equipment remains in a trustee, not to be affected in the event of bankruptcy and, as a rule, a 20-percent down payment is involved, with the remainder financed by the proceeds of the equipment trust and paid off over a period of 15 years. In the past year, several railroads have filed applications seeking to issue equipment trust certificates where 100 percent of the equipment's price is to be financed. Because this is a departure from the norm and since it substantially dilutes the quality of the equipment trust certificates, the Commission has required that in all sales of such certificates to the public there be inscribed on each certificate the fact that the equipment securing it was or will be financed entirely from the proceeds of the certificate.

Financing by holding companies controlling rail and motor carriers also continues to be a problem, particularly where the holding company also controls noncarrier companies. The holding company which controls only one carrier remains outside ICC jurisdiction. So do its securities issuances. This has been called to the attention of Congress, and legislation

has been proposed to extend ICC jurisdiction to cover the "single-carrier" acquisition.

In a number of situations the Commission has held that securities issued by a holding company (controlling two or more carriers) are subject to its jurisdiction unless it is found that the issuance does not relate to carrier operations and will not have an adverse effect on such operations. A number of applications filed this year with motions to dismiss required careful scrutiny to assure that carrier operations would not be adversely affected. For example, in *Illinois Cent. Gulf R.—Acquisition—G. M. & O., et al.*, 338 ICC 805 (1971), the Commission determined that Illinois Central Industries, Inc., a noncarrier holding company in control of the rail carrier, should be considered a carrier within the meaning of section 5(3) of the Act in regard to matters under section 20(a) to the extent that many of its issuance of securities or its assumption of obligations are related to the activities of any carrier under its control; and that if the issue or assumption is for noncarrier activities, an application in respect thereto would be dismissed. Accordingly, in Finance Docket No. 27372, *Illinois Central Industries, Inc.—Loan Agreement*, decided July 3, 1973, a guarantee by the said noncarrier to certain banks (so that Phillipsborn Equities, Inc., a noncarrier subsidiary might borrow \$13.5 million) was dismissed, as the evidence indicated no carrier under the control of Industries would be adversely affected by the loan, and the loan was not related to the activities of such carrier.

A similar problem arises with respect to carrier investments in noncarrier activities. Commission policy has been not to allow the issuance of securities for noncarrier investments where it could result in a serious drain on carrier operations, overcapitalization, or a neglect of carrier functions. In some instances authorization has been given, as in Finance Docket No. 26365, *Laurinburg & Southern Railroad Company Note*, wherein a small North Carolina railroad proposed to utilize a portion of its undeveloped real estate, not required for transportation purposes, to develop a shopping center. The carrier established that its railroad was being efficiently operated and actively developed, that it had sufficient lease commitments to make its noncarrier investment self-liquidating, and that full development of its resources would be beneficial. The Commission found that the transaction was not inconsistent with the public interest, in that the development

could inure to the benefit of the carrier as well as its stockholders and to the commerce of the service territory in general.

In the latter months of the fiscal year a general rise in interest rates was noted which, if continued, will further aggravate the problem of carrier financing. The problem is particularly acute with respect to railroad equipment for which there is a pressing need in many parts of the country.

REA brought an anti-trust action against most of the rail industry, seeking to have the court declare void certain notes issued by REA to the railroads in 1959, at the time they controlled REA. REA also sought treble damages. Although the Commission was not a defendant, the complaint was tantamount to a collateral attack upon the Commission's order of 1959, in Finance Docket No. 20812, *Railway Express Agency, Inc., Notes*, wherein the notes were authorized. The Commission was later made a party defendant in the court case. On December 20, 1972, a three-judge court issued an order staying all further court proceedings on the merits of REA's complaint. The Commission reopened its own proceeding for reconsideration and after prehearing conference, the Commission assigned the matter to an administrative law judge who issued an initial report dealing primarily with the procedural issues.

Loss and Damage

Broad-scale regulation of the processing of loss and damage claims was brought about by our decision in *Loss and Damage Claims*, 340 I.C.C. 515 (1972). That decision is typical of the more aggressive attitude we have had to adopt with respect to certain seemingly perennial problems in surface transportation. The cost of loss and damage to shipments transported by the nation's regulated surface carriers has increased considerably during the last several years. The cost of claims to major railroads, for example, was more than \$234 million in 1972.

In the *Claims* case we prescribed regulations to govern the processing of cargo claims and required all regulated common carriers to publish their claims practices in tariff form. Carriers also were ordered to cease and desist in their attempts to limit their claims liability. In recommending to the Congress the enactment of proposed remedial legislation for handling disputed claims and setting additional cargo-insur-

ance standards, we sought to increase the protection afforded to users of regulated surface transportation.

The ultimate purposes of the regulations and proposed legislation are prompt and responsible processing of claims voluntarily settled by carriers; provision of a national capability for disposing of disputed claims; development of claim-prevention programs of national scope; and establishment of cargo-insurance standards for railroads, express companies, and water carriers.

The regulations and tariff publishing requirements have been in effect only for a short period of time, but improvement is detectable in the overall situation. The number of complaints received by the Commission has been reduced insofar as claims matters are concerned. Despite a modest improvement, however, the Commission's position continues to be that enactment of the proposed legislation is essential to any realistic hope of controlling this multi-million dollar problem in transportation.

Because of the need for hard data on the claims experiences of certain carriers and the losses and damages they inflict upon the shipments they transport, we have continued our efforts to gather this data and periodically to publish summaries of it. Pursuant to the decision in *Quarterly Report of Freight Loss and Damage Claims*, 339 I.C.C. 678 (1971), several summaries of the quarterly reports filed by those carriers now have been issued. While it is too soon to conclude very much from these summaries, reports are received from more carriers with each succeeding quarter. For example, the numbers of reporting carriers in the first three quarters after the requirement became effective were 675, 726, and 774, respectively. As the Commission's data base is expanded, it may be expected that more accurate projections can be made of the scope of the overall claims problem. Presently, reports are required only from class I and class II motor carriers of property with average annual gross operating revenues of \$1 million or more. Efforts are continuing, however, eventually to include the nation's railroads within the scope of similar quarterly filing requirements.

Tariffs

Rising Number of Tariffs Filed

During fiscal year 1973, we received 329,215 tariff and schedule publications, 14 percent more than last year. This increase to some extent was a reflection of changing rate structures resulting from higher expenses facing carriers. After examination of these publications, 16,775 were criticized and rejected, 21 percent more than in fiscal 1972.

Tariff Examining Consumer Protection

A special unit in our tariff examining branch has been set up for the sole purpose of studying tariff publications with a view toward protecting the interest of consumers, who otherwise would be without knowledge of the provisions which could adversely affect them.

Tariffs are examined from the standpoint of rates, charges, rules, and regulations that could embargo small shipments or which would limit carriers' service to less than their full operating authority. Such negative action could include the cancellation of joint routes, rates, and interchange arrangements; high arbitrary charges from or to select points; and provisions whereby carriers will not handle shipments weighing less than, for example, 1,000 pounds. If the provisions of such rates, charges and rules are not canceled by the carrier when requested, the matter is referred to the Suspension and Fourth Section Board for possible suspension and investigation. Two of the tools used in this program are the Commission's decisions in *Restrictions on Service by Motor Common Carriers*, 111 MCC 151, and in *National Furniture Traffic Conf., Inc. v. Assoc. Truck*, 332 ICC 802.

Suspension and Fourth Section Board

New or changed rates and other provisions are filed by the carriers in the form of tariffs which are made available for public examination 30 days before becoming effective. This permits any interested shipper, carrier, organization, or person to protest the proposals and request that they be suspended pending investigation, or that they be investigated without suspension. Protests, as well as justifications for the changes, may be considered by the entire Commission or a

three-member division. More commonly, the issue of whether to prevent the institution of carriers' rate proposals is acted upon by an employee board whose decisions may be appealed to the Commission level.

A total of 4,852 rate adjustments involving changes in tariffs of rail, motor, water, freight forwarder, pipeline, and express carriers was considered by the Suspension and Fourth Section Board. Of these, 1,301 reflected increases; 3,385, reductions; 99 both increases and reductions; and 67 neither increases nor reductions. There were 7,714 tariff publications involved in these adjustments. Protests totaled 4,391, of which 97 were from state or federal government agencies; and 1,982, from shippers and receivers. The remaining 2,312 were from competing carriers. Statements from shippers and others intervening in support of the proposals totaled 322. Petitions to vacate, investigate, or discontinue totaled 194. In 204 instances, appeals were filed for reconsideration of the Board's conclusion not to suspend. A total of 525 investigation and suspension proceedings were discontinued upon cancellation of the schedules under special permission authority and advice that the carriers would not attempt to justify the suspended matter.

Informal Rate Cases

The shipping and traveling public as well as carriers were given assistance in tariff interpretation and in adjusting their rates and other transportation difficulties through the medium of informal rulings expressed in correspondence or in conference. In this manner, problems of complainants, defendants, and other affected parties were handled by an inexpensive procedure, saving time, effort, and expense for themselves as well as for the government.

Informal complaints ruled upon by the Bureau of Traffic totaled 93 during fiscal year 1973. These included informal complaints docketed under Rule 25 of the General Rules of Practice and other more general rate inquiries.

There were 322 applications and registrations received on the special docket. These applications requested authority to refund freight charges already collected or to waive collection for the future on grounds of admitted unreasonableness. Refunds or waivers were authorized in 265 cases, totaling \$1,638,571. The largest single award, \$157,995, involved 175 carloads of lead concentrates from Wasson, Colo., to El Paso,

Tex., stemming from the failure of carriers to establish a specific one-factor commodity rate prior to movement of the traffic.

Transmission of Tariffs

Docket No. 35613

Over the past few years there have been growing complaints that tariff subscribers and other interested parties have not been receiving tariff publications in sufficient time to examine the contents for the filing of petitions for suspension and investigation. In some instances the tariff publications were received after they had become effective.

In view of this, Division 2 entered an order on Aug. 28, 1972, to amend Title 49; Parts 1300, 1303, 1304, 1306, 1307, 1308, and 1309 of the Code of Federal Regulations required carriers, including express companies and freight forwarders, to transmit tariff publications to subscribers thereto not later than the time the copies for official filing are transmitted to the Commission. The only exception would be tariff publications published under authority from the Commission on less than 10-days' notice. In those instances the carriers must transmit copies within four days after the official copies are transmitted to the Commission. The order also required carriers and agents to furnish a copy of any of their tariff publications to any person upon reasonable request, free or at a reasonable price not to be greater than that charged subscribers.

Court action blocked institution of the order as it affected railroads, freight forwarders, and water carriers (passenger tariff publication only). Pending the outcome of the court proceedings, no action is being taken to enforce the order as to the other carriers.

Updating Tariffs to Reflect General Increases

Updating rail tariffs to reflect increases authorized in Ex Parte Nos. 265-267 by use of conversion-type supplements authorized by Special Permission No. 71-5875 so as to provide a one-step increase rather than the multiple-step increases by use of the master tariffs, proceeded slowly at first. However, at the present time, with the exception of certain tariffs of

northeastern bankrupt railroads, the tariffs of the railroads have been corrected by reissue or by issuance of conversion-table supplements which reflect master tariff increases up to and including Ex Parte No. 267 and in many instances Ex Parte No. 281.

Small Shipment Tariffs

Over the past ten years the rail carriers for the most part have not handled any LCL (less-than-carload) traffic. This has been of great concern to the small shippers. Generally, the carriers were justified in the curtailment of LCL service from a cost of service standpoint; in most cases it was shown that a station or group of stations did not generate sufficient tonnage to warrant this service and were in fact operating at a loss.

Recently the Western Pacific Railroad Company established a new tariff on trailer-on-flatcar service. The tariff applies between Oakland, Calif., and Salt Lake City, Utah, and provides rates on both LTL and TL shipments in plan II (door-to-door) service for the various LTL weight brackets and TL minima. This is the first time to our knowledge that in recent times the rail carriers have offered door-to-door LTL service, which should prove beneficial to the small shippers in view of the trend of today, where carriers, both motor and rail, are reluctant to handle small shipments.

Obtaining service on small lots of commodities requiring refrigeration has been somewhat of a problem to the public. Recently, Refrigerated Transport Co., Inc., of Forest Park, Ga., established a unique tariff with respect to small shipments. The tariff applies on LTL (less-than-truckload) shipments of foodstuffs moving in refrigerated equipment between points in 37 states and the District of Columbia, including trans-continental traffic. It names rates for LTL weight brackets ranging from less than 1,000 pounds up to and including 10,000 pounds. The rates are to alternate with truckload rates published in its individual tariffs as well as those of other major rate bureaus. Prior to the establishment of the tariff, this carrier participated, insofar as LTL traffic was concerned, in agency tariffs. The objective of the new tariff was to simplify rating shipments; instead of the tariff user resorting to numerous tariff and multiple steps to determine the applicable rate, except for the alternation

provisions, only one publication would be used. It would seem from this that at least some carriers are interested in alleviating the small shipment problem.

Alpha Code Tariff Numbering System

The Special Permission Board recently granted Special Permission No. 73-2800-M (January 23, 1973), which permits motor common carriers to establish a new tariff numbering system. The new numbering system is designed to facilitate the use of computers. The carriers or agents are first assigned alpha codes which appear in the Continental Directory of Standard Carrier Alpha Codes ICC NMF 101, filed with the Commission by the National Motor Freight Traffic Association, Inc., Agent. Once carriers or agents have been assigned an alpha code and elect to convert their tariff libraries to the new system, they must use numbers which follow the alpha code, and which identify the type of tariff. For example, the 100 to 199 series covers governing publications of all kinds. When a tariff is reissued, a letter suffix is used. Thus tariff ICC XYZ 100-A cancels ICC XYZ 100 and so on until the alphabet is exhausted, after which the series begins with A again.

A similar proposal is being considered for all carriers and is presently the subject of rulemaking in Docket No. 35819, *Regulations Governing the Form of ICC Designations to be Shown on Tariffs and Schedules, and Assignment of Alpha Code Carrier and Agent Designation.*

Computerization

The railroads actively continue to explore computerization techniques in connection with the publication of tariffs. During the year a major step forward was made by a modification in the tariff printing from direct print to the use of photo-composition techniques. The change provided substantially improved visual clarity. The carriers seek to convert all tariffs to computer-compatible format for automatic compilation and printing.

Canadian Railroads are also involved in computerization and have filed tariffs applicable on U.S.-Canadian traffic, using computer technology which promises to provide fully computer controlled printing, updating, retrieval, and rate quotation capability.

Motor carriers considering various specific applications of computerization recently expressed interest in the application of microfiche to the publication, mailing, and display of publications.

Tariff Users Advisory Committee

This Committee, organized last year, during the first half of this year considered subjects largely directed to tariff simplification. Included are simplification and uniformity of commodity descriptions, uniformity in tariff numbering systems, simplification of tariff provisions, definition, and practical elimination of obsolete tariff matter. The activity of the Committee was halted, and the Committee was dissolved in January 1973, when the requirements of Public Law 92-463 relating to Advisory Committees required procedural and structural modifications which were considered incompatible with the Committee's effective functioning.

Released Rates Board

Released rates board, a board of Commission employees, has the power to take initial action in connection with applications from carriers to establish rates and ratings based on released valuation of liability for loss and damage to property.

Seventy-eight Released Rates Orders were entered in the first 11 months pursuant to applications filed seeking authority under Sections 20(11), 219, and 413 of the Act to establish rates dependent upon declared or agreed value.

Environment

This Commission's regulations permit us fully to coordinate our environmental improvement effort with other federal agencies, as well as with state and local governments (*Implementation—Nat'l. Environmental Policy Act, 1969, 340 ICC 431*). Interested persons have raised environmental questions in an increasing number of proceedings.

In Ex Parte No. 281, *Increased Freight Rates and Charges, 1972*, served May 7, 1973, we issued an environmental impact statement representing the agency's most extensive work in the environmental field to date. The report concluded:

That such selective rail freight rate increases, when considered in the light of historic and prevailing rate relationships, transport patterns, and the infinite variety

of technological and other variables discussed in this report, are not likely to have a significant impact upon the movement of the involved traffic by rail.

That any probable adverse environmental effects which cannot be avoided, when balanced against other stated public policy purposes, the lack of probability that the proposed rail rate increases will have a material adverse environmental effect, and the environmental benefits to be ensured by the maintenance of an efficient and reliable railroad system, are not significant.

That upon a rigorous exploration and objective evaluation of possible alternatives, the proposed action found to have less detrimental effects upon the environment than other reasonable alternatives.

That future generations will be assured of the availability of an efficient railroad system and its inherent environmental advantages, and that there is no potentially significant short-term effect upon the quality of the human environment because the movements of secondary commodities will not be significantly deterred and such traffic will not be diverted from the railroads.

That there is likely to be no irreversible and irretrievable commitments of resources.

The Supreme Court in February 1973 heard arguments in *S.C.R.A.P. v. U.S.*, *supra*, concerning the necessity of an environmental impact statement at the time a decision is made as to whether or not to suspend filed rates. This action originated with a complaint filed by five law students seeking to set aside the Commission's action in declining to suspend an interim 2.5-percent surcharge by the nation's railroads in Ex Parte No. 281, because the proposed surcharge was not accompanied by an environmental impact statement. In its decision dated June 18, 1973, the Supreme Court reversed the judgment of the district court on the ground that it lacked the power to enjoin the collection of railroad rates during the suspension period. Rejecting the district court's reliance on the National Environmental Policy Act of 1969 for authority to enjoin the rates, the Supreme Court stated that nowhere in the legislative history or the statutory language of NEPA is there any indication that Congress intended to restore to the federal courts the power temporarily to suspend railroad rates, a power clearly taken away by section 15(7) of the Act. The Supreme Court also found that environmental interests

are sufficient to confer standing. It is expected that environmental suits will continue to be filed against this Commission as well as other agencies.

This Commission has been asked to consider environmental issues in a large variety of cases including railroad abandonments,¹ railroad track construction,² rate cases,³ and operating rights cases.⁴ In addition to these activities, we have regularly reviewed impact statements and proposed environmental regulations received from state and federal agencies. We also have met with interested members of the public to acquaint them with our environmental activities.

The National Environmental Policy Act of 1969 (NEPA) generally provides for the expansion of efforts by the Commission to foster and promote improvement of the environment. In *Implementation—Nat. Environmental Policy Act of 1969*, 339 ICC 508 and 340 ICC 431, the Commission has established certain regulations and guidelines to be utilized in proceedings before it respecting environmental findings. Various court decisions also have affected the work of the Commission in environmental matters. In *Bush Terminal R. Co. Entire Line Abandonment*, 342 ICC 34, the court remanded the proceedings to the Commission on the environmental issue. In *Burlington Northern, Abandonment*, 342 ICC 446, wherein the railroad was authorized to abandon 11 miles of track in the Seattle, Wash., area, the Commission took pains to ascertain the environmental impact of the abandonment and an impact statement was sent to all interested parties seeking their comments. Ten city or civic organizations and various federal agencies filed comments. The Commission found that the right-of-way had unique characteristics making it ideally suited for public use as a park, pedestrian walk, and bicycle path. Accordingly, the Commission acted to encourage civic acquisition of this property for public parkland, and the City of Seattle and interested civic groups were given 90 days in which to enter into meaningful negotiations and agreements for purchase of the land, with the city accorded priority for the first 30 days. The time was subsequently extended, and

¹ *Burlington Northern, Inc., Abandonment*, 342 ICC 446.

² *Burlington Northern, Inc., Douglas and Gillette, Wyo., Line*, Finance Docket No. 27208.

³ No. 35377, *Oklahoma Intrastate Freight Railroad Charges*, 1971.

⁴ Ex Parte No. 55 (Sub-No. 8), *Motor Common Carriers of Property, Routes, and Service* (Petition for Elimination of Gateways by Rulemaking.).

the determination of the purchase price was assigned to compulsory arbitration.

In instances where a railroad abandonment could have a significant effect upon the human environment, the Commission sought to develop a record dealing with environmental as well as economic and other factors, and with the interrelation of the several kinds of factors. On the basis of such a record, an environmental impact statement could be prepared for distribution among the parties. Certain environmental protection advocates have insisted, however, that the impact statement be distributed prior to any other official decision. They have obtained an injunction from a federal district court which adopted their view. The court recognized that, at least initially, the Commission must make a threshold determination as to whether a particular case involves a "major federal action having a significant effect upon the human environment" within the meaning of NEPA. Where that determination is in the affirmative, the court's injunction prohibits the Commission from further abandonment procedures until the impact statement is circulated. If the restraining order remains in effect, the time and expense of abandonment proceedings will be seriously compounded as will be the demands upon a Commission staff and budget already attenuated by the northeast railroad crisis and other matters requiring urgent attention.

Accounting

Carrier Reporting Requirements

Annual periodic reports of the surface transportation industry were revised substantially this year. We began a program to reduce all report forms to business size, permitting the use of standard size copy machines to reproduce the reports. The smaller forms will be easier to handle, file, store and retrieve.

Other reporting changes during the year included:

- Amending the reporting requirements of railroads to provide for reporting of remunerations received from the National Railroad Passenger Corporation (AM-TRAK) in annual report form A, Docket No. 35344 (Sub-No. 3), 344 ICC 148.
- Providing a uniform basis for the reporting of compensation of officers by requiring the salary and other

compensation of the five persons paid the greatest amounts, and all over \$40,000, in annual reports.

- Revision of freight commodity statistics reports required of railroads, electric railways, motor carriers, and water carriers to conform with changes made in the Commodity Classification for Transport Statistics.
- Revision of annual report form D for motor carriers of passengers to include prepayments under current assets rather than under deferred debits, Docket No. 32156 (Sub-No. 1), 344 ICC 105, and combining of several schedules to simplify reporting.
- In Docket No. 32155 (Sub-No. 3), *Separate Classification of Revenue and Expense Accounts for Household Goods Moving and Storage Industry*, the Commission instituted a proposal intended to allow carriers of household goods to have a separate classification of accounts to meet their special needs. This will provide a more detailed matrix of operating revenue and expenses, including accessorial services, such as packing, warehousing, overseas operations, and a more detailed functional and natural classification of revenue and expenses.
- Development of a system requiring class I railroads to file quarterly reports of freight loss and damage claims effective in 1974. Reporting of this data was urged by the Senate's Select Committee on Small Business, and will be similar to requirements developed for large motor carriers of property in 1971.

New Uniform System of Accounts for Motor Carriers of Property.

A major revision of the uniform system of accounts for common and contract motor carriers of property was accomplished this year (49 CFR 1207), and the new system takes effect January 1, 1974.

Developed in cooperation with the motor carrier industry and the accounting profession, the system is management-oriented. Its adoption by the Commission represents a significant turn in regulatory accounting philosophy and objectives. The newly-prescribed rules provide for financial and cost information needs not only of the Commission but also of the carrier management and other interested parties.

For many years, motor carrier management, the Commission, and the public relied on the accounting system devel-

oped in 1936 which was essentially based on the railroad model then in effect. At that time, the motor carrier industry was in its infancy, operations were relatively small, and accounting requirements were rudimentary. The basic accounting classification prescribed since 1938, while modified in many respects, has remained substantially the same as originally drafted.

Since 1950 the rapid competitive change in the transportation industry, the growth in size and number¹ of motor carriers, and the diversification of many corporate organizations signaled the need for a more sophisticated "managerial" accounting system that would also meet regulatory accounting requirements. The new system is intended to satisfy such need.

A distinct innovation in the new accounting system is the use of the matrix chart of accounts for cost accumulation and distribution to the various transportation functions. This approach allows for analysis and synthesis of service elements for the basic determination of costs. The coding system for computer adaptation facilitates the data gathering process and promotes a clear understanding of the structure of the interrelated activities. The dual classification of accounts (natural and functional) will provide more reliable building blocks for cost finding than are now available.

The revised system represents a move towards conformity of the Commission's rules with generally accepted accounting principles. Aligned with achieving this objective, several revisions in the prescribed accounting concepts and methods are under study. These include treatment of treasury stock at cost, interperiod tax allocation (deferred taxes), equity method of accounting for certain long-term investments in common stocks, and consolidated statements reporting.

In order to assist the carriers in converting to the new system, the Commission assigned a staff member of the Bureau of Accounts to the Commission assigned a staff member of the Bureau of Accounts to participate as instructor in a series of workshops held in 14 cities throughout the country.

¹ In 1938, there were 1197 regulated class I motor carriers; in 1973, there were 3914 class I and II carriers of property subject to the prescribed uniform system of accounts and 11,108 class III's filing annual reports to the Commission but not subject to the prescribed uniform system.

Motor Carrier Platform Handling Study

A special time and motion study of the effect of commodity density, shipment weight, and other operating factors on the cost of motor carrier platform service was released in June 1973 as Statement No. 2S51-70.

Platform operations were found to be divisible into five elements of service, i.e., sort time, breakout time, running time, stowage time, and paper time. Each of these elements of service was analyzed to determine the difference in the time required for handling shipments of various weights and commodity densities across the carriers' platforms. Results of the study indicate that the minutes per hundredweight required to handle freight across the platform decreased as shipment weight and commodity density increased:

Advisory Committee on Valuation—Pipelines

In compliance with the Federal Advisory Committee Act (Public Law 92-463), we created a new advisory committee to be known as the Pipeline Advisory Committee on Valuation.

The Committee consists of eight oil pipeline company representatives selected for membership by the Commission. The membership reports to the Director of the Bureau of Accounts who serves as Chairman of the Committee.

The Committee's primary function is to provide the Bureau of Accounts with data and information needed by the Commission to determine annual price/cost indices for pipeline facilities and equipment. The Committee serves in an advisory capacity only, with final calculation and judgment of the data submitted made by the Commission's Bureau of Accounts.

Trans Alaska Pipeline

The Commission has met with representatives of the Alyeska Pipeline Service Company to discuss the method and procedures of accounting and reporting in connection with the proposed Trans Alaska Pipeline System. The Trans Alaska Pipeline System is a proposed 48-inch crude oil pipeline that will extend from Prudhoe Bay oilfield in northern Alaska to the Valdez terminal in southern Alaska, approximately 789 miles. At Valdez, oil will be transferred to ocean-going tankers

with ultimate delivery to the west coast or other appropriate locations.

At the present time it is estimated that the construction cost of this project will be approximately \$3.5 to \$4.0 billion, and it will take from three to four years to complete.

The Bureau of Accounts will be responsible for developing a final valuation for the properties of the Trans Alaska Pipeline System. The valuation serves as a basis for ratemaking and will be scrutinized by all parties interested in the financial value and return realized on this common carrier oil pipeline.

Procedure

This year we issued a number of important refinements and clarifications in procedural and evidentiary matters that occur in proceedings over which we preside. In Ex Parte No. 55 (Sub-No. 6), *Petition Alaska Carrier Assoc., Et. Al., Amendment of Rule 247 General Rules of Practice*, we granted the request of Alaskan and Hawaiian motor carriers for amendment of the motor carrier application form so they would be relieved of filing unnecessary protests to applications which fail to specify whether authority is being sought from, to, or between points in Alaska or Hawaii. In the same order, we denied the request of the National Tank Truck Carriers, Inc., to amend the application form so that motor carriers of bulk commodities would be relieved of filing protests to applications which fail to specify whether authority is being sought to transport commodities in bulk. Concerning the latter, it was concluded that the amendment would create numerous interpretive problems, especially regarding certificates which do not specifically exclude commodities in bulk; that if the sought relief were granted, similar relief would have to be considered for each group requesting such action; and that such frequent revisions in the application form are neither economically nor administratively desirable. We also found that the addresses of supporting shippers should be included on their certificates of support in order to enable persons planning to participate in an application proceeding to locate the shipper's facilities. It is hoped that this will eliminate many unnecessary protests.

When a party in an investigation proceeding requested that it be allowed to utilize various discovery procedures in any hearing it was required to attend, citing sections of the

Federal Rules of Civil Procedures, we determined that at that particular stage of the proceeding such discovery appeared premature and unnecessary. Also, the Commission's General Rules of Practice already provide a means for obtaining discovery, and since the petitioner made no specific requests, there appeared to be no reason why a set of different rules should be established for this particular proceeding unless it was established that the existing rules were ineffective or otherwise insufficient to enable the petitioner to prepare an adequate defense.¹ We called specific attention to the fact that it is the Commission's regular procedure to include, along with each order assigning a matter for processing under modified procedure, a notice describing the type of evidence which the applicant's supporting witnesses and protestants should supply in order that the Commission may have before it facts sufficient to support a well-informed decision.² When a shipper failed to disclose that it was supporting several applications for common carrier authority duplicating in whole or in part that sought in a contract carrier application it was also supporting, we pointed out that absolute and complete candor is expected on the part of all parties coming before the Commission.³ Although not specifically prohibited by the statute, an applicant was cautioned against the filing of successive applications for similar authority which might be considered harassment of smaller competitors.⁴ A carrier that appeared to be soliciting support for its application by advertising in a widely circulated trade magazine was admonished to cease this practice. This type of solicitation is neither acceptable nor desirable because of the administrative litigation it generates.⁵

Application forms for motor carrier temporary authority, freight forwarder authority, and water carrier authority, in addition to those for motor carrier permanent authority were revised, clarified, and updated. New interim guidelines were issued for the processing of water carrier temporary authorities.

¹ *Eagle Motor Lines, Inc., Invest. & Revoca. of Certif.*, 117 MCC 72.

² *Clear Water Truck Co., Inc., Extension—Meats*, 117 MCC 419.

³ *Warthen Extension—Cranberries*, 117 MCC 470.

⁴ *United Parcel Service Ext.—Tenn., Ark. and Miss. Points*, 117 MCC 621.

⁵ *Transportes Azteca Extension—Eastern States*, 117 MCC 645.

ENFORCEMENT

The range of enforcement methods used during the year included Commission orders, court injunctions, criminal penalties, civil forfeitures, and contempt citations and sanctions. Cases arose in connection with the many areas of Commission responsibility which are described in prior chapters of this report. They involved:

- Practices directly and adversely affecting the consumer, such as carriers providing inadequate motor or rail service to meet the needs of the public.
- Destruction of rate integrity by devices to grant rebates or concessions.
- Practices involving failure to provide adequate insurance protection to individuals and cargo.
- Illegal operations in competition with authorized carriage.
- Practices affecting capitalization.
- Unauthorized control of carriers and antitrust matters.
- Financial, operating, and management practices.

Our enforcement cases involve every mode of carriage within our regulation—rail, pipeline, motor, water, and freight forwarder. The cases run the spectrum from those of limited impact to matters leading to very substantial fines or forfeitures.

In its enforcement role the Commission questions particular practices, whether by individual carriers or shippers, or by entire segments of the transportation or shipping industries. At issue is whether those practices are violative of particular provisions of the law. If there are flagrant violations or practices persisted in after adequate warning, direct and formal legal action is taken to obtain compliance and also to penalize the violator. The Commission has a significant responsibility to prevent illegal practices which are damaging to the transportation industry and to its users. During the past year, the Commission's program recorded many successful

prosecutions directed toward correcting abuses in the vast transportation complex that serves our nation.

Carrier Service

In support of the rail car service program, which involves timely placing and removing of freight cars so as to improve equipment utilization, cases were concluded which resulted in the following significant civil forfeitures:

Port Terminal Railroad Association	\$69,800
Southern Pacific Transportation Company	\$9,500

In a related prosecution, fines totaling \$2,000 were imposed against the Illinois Central Gulf Railroad and Chapman Chemical Corporation for their disregard of the Uniform Freight Classification Rules which require consignees of rail shipments to remove all dunnage and incoming lading prior to release of the car and its further movement by the delivering line.

In addition to forfeiture actions, injunctive action was utilized to enjoin St. Johnsbury and Lamoille County Railroad and S.M. Pinsly from abandoning operations from St. Johnsbury to Swanton, Vermont. This action prevented the loss of transportation services to shippers of feed, minerals, lumber, and dairy products who contended they would otherwise have been forced to terminate operations with losses of millions of dollars in personal income and tax revenue to the area.

In an action involving the Marianna & Blountstown Railroad Company, the court found Joseph C. Bonanno, Alexander Theoharous, and Alfred Merolla in civil contempt of an injunction requiring Bonanno and the Marianna & Blountstown to make facility improvements necessary for resumption of the railroad's operations.

Areas of motor carrier service which continued to receive extensive enforcement attention as an aid to the consumer were those involving household goods carrier practices, small shipments, adequacy of service, and maintenance of proper insurance for the protection of the public.

The Bureau of Enforcement participated in a number of Commission proceedings involving consumer problems, which resulted in suspension of portions of six household goods carriers' authority for a total of 120 days. Its participation in applications for extension of authority in which it offered evidence dealing with the carriers' fitness based on their

records of noncompliance in cases, involving H.R. Ritter Trucking Co., Inc., and A.J. Metler Hauling & Rigging, Inc., resulted in the Commission finding these applicants unfit to receive additional authority.

It also participated in an investigation into the practices of AAACon Auto Transport, Inc., concerning its operations and participated in adequacy of service matters involving Pacific Intermountain Express Co., and F & W Express, Inc. The latter's request for partial revocation of its authority was denied as there was no proof to establish that other carriers could serve the points involved.

A number of Commission proceedings involved the performance of transportation without proper insurance coverage and the failure of carriers to remit C.O.D. funds collected from consignees, within the requisite time period, a matter of importance to all shipper-consumers and particularly small businesses. Court actions for such violations were brought against Reeves Transportation Company with the court imposing a fine of \$7,000 for failure to remit C.O.D. collections within 10 days of delivery of shipments. Pulaski Highway Express, Inc., was fined \$2,900 on similar charges.

It was necessary to institute court actions because of the failure of several carriers to make full and correct disclosures in Commission proceedings, such as those involving Ronald W. Waters (fined \$2,000), Bob R. Thrush, doing business as Arrow Van Lines (fined \$1,000), and John S. Badger, doing business as Economy Movers (fined \$1,000).

Rate Integrity

An active prosecution program against both carriers and shippers involved in rebates and concessions has continued.

Significant cases involving penalties for rate evasion practices included:

Permaneer Corporation	\$65,000
General Motors Corporation	\$49,000
General Electric Company	\$48,975
Denver and Rio Grande Western Railroad Company	\$27,000
Union Pacific Railroad Company	\$27,000
Southern Pacific Transportation Company	\$20,375
New Jersey Shippers Pooling Association, Inc.	\$19,000
Associated Transport, Inc.	\$6,000
Western Maryland Railway Company	\$3,000
Rapid Assembling Agency, Inc.	\$2,500
Ferguson Transportation Co.	\$2,400
Borden, Inc.	\$2,400

In cases such as these, undercharges are often billed and collected by the carrier as a result of our action. As examples of this, General Electric Company paid in excess of \$2,000,000 and Permaneer Corporation paid over \$234,000 in undercharges.

A number of other cases where rate integrity had been damaged involved providing and obtaining free carrier services or undeserved allowances. Some of the significant cases involving these violations and the penalties which resulted included:

Seaboard Coast Line Railroad Company	\$5,000
Florida East Coast Railway Company	\$5,000
Associated Growers of Florida, Inc.	\$5,000

Illegal Operations

Much of the Commission's enforcement activity is directed toward obtaining compliance with operating rights provisions of the Act. The various guises and activities undertaken by those operating without authority or beyond their authority have been described in past annual reports, but new schemes continue to be devised. This year unlawful operators have paid fines and forfeitures, were subject to court injunctions, contempt penalties for violation of court orders, Commission cease and desist orders, and findings of unfitness to conduct proposed operations, and were made subject to term limitations in grants of operating authority.

This aspect of the Commission's enforcement program requires continuing attention because of the predilection of some certificated as well as unlicensed carriers to participate in transportation regardless of whether authority for the particular operation has been obtained and the tendency of such illegal operations to grow if unchecked.

The Sixth Circuit Court of Appeals affirmed a lower court which granted the Commission's request for a permanent injunction in *ICC vs. Lewis C. Howard and Jerry Iverson*, restraining them from transporting property without authority. The defendants claimed unsuccessfully that their operations were lawful under the partial exemptions in section 203(b)(7a) and (8) of the Act.

Much of our effort has centered on motor carriers and shippers, who forfeited over \$600,000 last year on civil claims made and settled by the Commission. An example of such

action was a case where forfeitures totaling \$42,500 were received from Shippers Leasing, Inc., an unauthorized motor carrier, and Scheller-Globe Corporation-Globe-Weis Systems Co., a shipper who utilized its services.

A case having considerable impact on our effort to control unlawful transportation by agricultural cooperatives was the decision by a district court refusing to grant an injunction to the Commission to require the cooperative to allow the inspection of its records as contemplated by section 220(g) of the Act. The court held that the cooperative was not a motor carrier and, therefore, the injunctive provisions of section 222 (b)(1) did not apply. This case is now pending before the Ninth Circuit Court of Appeals, in *ICC vs. Big Sky Farmers and Ranchers Marketing Cooperative of Montana, et al.* A number of other cooperatives have now refused to allow inspection of their records pending a determination of this appeal.

Practices Affecting Carrier Capitalization

One aspect of capitalization that must be recognized is the negative impact caused by the extension of credit by carriers for long periods of time, its detriment to a stable transportation industry, and the Commission's actions with respect to this industry problem. The Interstate Commerce Act requires a carrier to obtain cash for shipments carried, unless it extends credit within the terms of the ICC regulations. The following fines and forfeitures are some of the significant recent cases involving extension of credit:

Southern Pacific Transportation Company	\$20,000
Texas & Pacific Railway Company	\$20,000
Norfolk and Western Railway Company	\$20,000
Missouri Pacific Railroad Company	\$15,000
Atchison, Topeka and Santa Fe Railway Company	\$15,000
Chicago, Milwaukee, St. Paul and Pacific Railroad Company	\$15,000
Burlington Northern, Inc.	\$15,000
Illinois Central Gulf Railroad Company	\$15,000
Chesapeake and Ohio Railway Company	\$15,000
Chicago and Eastern Illinois Railroad	\$10,000
Basic Beverage Corporation	\$5,000
Houston Central Warehouse and Cold Storage Company	\$5,000
Matlack, Inc.	\$3,000

Control and Antitrust Matters

Prosecution by the Commission and the Department of Justice of the unfair competition cases against The Greyhound

Corporation, Greyhound Lines, Inc., R.F. Shaffer, J.L. Kerrigan, and F.L. Nageotte as reported in last year's annual report resulted in the court on June 27, 1973, finding The Greyhound Corporation and Greyhound Lines, Inc., guilty of criminal contempt and The Greyhound Corporation, Greyhound Lines, Inc., R.F. Shaffer, J.L. Kerrigan, and F.L. Nageotte guilty of civil contempt. The petitions charging civil and criminal contempt of court were based on the manner in which Greyhound and its officers continued to operate in relation to a competitor, Mt. Hood Stages, Inc., even after a three-judge court order of February 1970 required a revision of those practices. The injunction had been issued by the court following Greyhound's appeal from a 1969 order of the Commission requiring Greyhound to cease and desist from continuing certain anti-competitive and discriminatory practices against the competitor. Mt. Hood also filed its own treble damage suit against The Greyhound Corporation and Greyhound Lines, Inc. under sections 4 and 16 of the Clayton Act and was awarded on May 11, 1973, a special verdict in the amount \$13,146,000 plus interest, costs, and reasonable attorneys' fees. The verdict is pending court review?

Unlawful control situations were the subject of other court actions, such as one involving *Gringeri Bros. Transportation Co., Inc.*, which was fined for effectuating and continuing unlawful control of a second carrier in violation of section 5(4) of the Act.

Financial Oversight

In order that the Commission may effectively oversee financial activities of the carriers, they are subject to record-keeping and reporting requirements as well as substantive laws covering financial responsibility. The underlying recordkeeping and reporting requirements sometimes necessitate enforcement actions. Among those this year: Long Transportation Company, Ralph W. Osterman, and Wayne E. Long forfeited \$2,500 for failure to keep accounting records so as to reflect true and accurate expenses, and Ray E. Cagle and Forest L. Cagle, doing business as Cagle Bros. Trucking Service, forfeited \$5,000 for failing to file financial reports.

DEVELOPMENT OF POLICY

The policy direction of the Commission follows a logical progression beginning with the case-by-case decisions and the broad rulemaking investigations. These are often followed by court actions that interpret and refine the Commission's actions, and by legislative amendments to mold the definitive policy that is to be followed.

Earlier presentations in this report summarize results of the more significant case decisions. There follows a list of the rulemaking investigations before the Commission this year, major court actions, and pertinent legislative considerations.

RULEMAKING PROCEEDINGS—FISCAL 1973

(*Indicates action completed)

Rules Affecting the Broad Range of Transportation

No. 34013 (Sub-No. 1) ..	Cost Standards—Intermodal Rate.
Ex Parte No. 73	Regulations for Payment of Rates and Charges.
Ex Parte No. 246 (Sub-No. 1)	Regulations Governing Fees for Services Performed in Connection with Licensing and Related Activities.
Ex Parte No. 251	Joint Rates and Practices of Surface and Air Carriers.
Ex Parte No. 272*	C.O.D. or Freight Collect Shipments, 343 ICC 692.
Ex Parte No. 278	Investigation of Discrimination Practices of Carriers.
Ex Parte No. 282	Railroad and Water Carrier Consolidation Procedures.
Ex Parte No. 288*	Protective Service Charges—1972, 341 ICC 573.
Ex Parte No. 294	Revocation of Tariff Circular Rules.

RAILROADS

Ex Parte No. 252 (Sub-No. 1)	Incentive Per Diem Charges—1968.
Ex Parte No. 268*	Determination of Avoidable Losses Under the Rail Passenger Service Act of 1970, 343 ICC 379.
Ex Parte No. 270	Investigation of Railroad Freight Rate Structure.
Ex Parte No. 270 (Sub-No. 1)	Investigation of Railroad Freight Structure—Export-Import Rates and Charges.
Ex Parte No. 270 (Sub-No. 2)	Investigation of Railroad Freight Service.
Ex Parte No. 271	Net Investment—Railroad Rate Base.
Ex Parte No. 274	Abandonment of Railroad Lines Where No Public Objection is Sustained.
Ex Parte No. 277	Adequacy and Safety of Railroad Passenger Service.
Ex Parte No. 277 (Sub-No. 1)	Adequacy of Intercity Rail Passenger Service.
Ex Parte No. 285	Maintenance of Records Pertaining to Demurrage Detention and Accessorial Charges by Rail.
Ex Parte No. 286	Adequate Notice to the Public of Proposed General Increases in Freight Rates and Passenger Fares.
Ex Parte No. 289	Remittance of Demurrage Charges of Railroads.
Ex Parte No. 290	Procedures For Railroad General Increase Proceedings.
Ex Parte No. 293	Northeast Rail Investigation.
Ex Parte No. 298*	Railroad Rate Adjustment Act of 1973.

MOTOR CARRIERS

Ex Parte No. 263 (Sub-No. 1)	Processing of Loss and Damage Claims.
Ex Parte No. 284	Definition of Reasonable Dispatch.
Ex Parte No. MC-1 (Sub-No. 3)	Credit Rules.
Ex Parte No. MC-1 (Sub-No. 4)*	Credit Regulations—Oilfield Carriers.

Ex Parte No. MC-1 (Sub-No. 5)	Payment of Rates and Charges of Motor Carriers by Shippers.
Ex Parte No. MC-19 (Sub-No. 7)	Different Rate Levels for Identical Movements (Household Goods Carriers).
Ex Parte No. MC-19 (Sub-No. 15)	Rules for Advance Reservation of Vehicle Space.
Ex Parte No. MC-19 (Sub-No. 16)	Extension of Credit.
Ex Parte No. MC-19 (Sub-No. 19)	Practices of Motor Common Carriers of Household Goods (Consumer Protection), 118 MCC 178.
Ex Parte No. MC-19 (Sub-No. 20)	Household Goods (Liability Limitations).
Ex Parte No. MC-37 (Sub-No. 21)*	Commercial Zone—Wilmington, Del.
Ex Parte No. MC-37 (Sub-No. 22)*	Commercial Zone—Indianapolis, Ind.
Ex Parte No. MC-55 (Sub-No. 3)	Procedural Discovery Rules.
Ex Parte No. 55 (Sub-No. 8)	Motor Common Carriers of Property—Routes and Services.
Ex Parte No. MC-55 (Sub-No. 9)	Petition to Amend Rule 51—General Rules of Practice.
Ex Parte No. MC-80	Requirements for Motor Common Carriers to Keep Records of Requests and to Explain Failures to Meet Requests.
Ex Parte No. MC-82	New Procedures For Motor Carrier Revenue Proceedings.
Ex Parte No. MC-83* ...	Review of Administrative Ruling No. 76—Contract Carriers, 117 MCC 433.
Ex Parte No. MC-87	Interpretation of Operating Authorities—Passenger Brokers.
No. MC-C 6829	Investigation of Limitation of Free Baggage Allowance.

No. MC-C 6829 (Sub-No.

- 1) Limitation of Free Baggage Allowance—Reasonableness of \$80 Limitation.

FREIGHT FORWARDERS

Ex Parte No. 266 (Sub-

- No. 1) Scope of Terminal Areas.

No. FF-C-51 Freight Forwarders of Household Goods—the Need for Greater Regulation.

Court Actions

The test of validity of a particular administrative decision ultimately rests with the courts. While only a small percentage of Commission decisions are placed under judicial review and fewer still are overturned, the court cases can and do have a significant impact on the course of regulatory direction. During the year, we had 306 cases in various stages of litigation in the federal courts. At the beginning of the fiscal year, 173 cases were pending and 133 additional cases were instituted during the year. Concluded were 121 cases with 185 left pending on June 30, 1973. Of the cases concluded, 21 were by the Supreme Court, 1 by the courts of appeals, and 99 by district courts. A few of the more important cases are discussed below.

A major issue in the courts during the past year grew out of the problems of car supply. In *United States v. Florida East Coast Railway Company*, 93 S.Ct. 810 (1973), the Supreme Court, overturning the district court (322 F. Supp. 725), sustained the procedures used by the Commission in promulgating the incentive per diem charges, which were designed to improve utilization of the available car supply as well as to encourage expansion of the national car fleet. The matter was returned to the District Court for the Middle District of Florida for resolution of the substantive issues. Also pending at the close of the fiscal year was *Ann Arbor R.R. Co., et al. v. United States*, Civil No. 73-881, E.D. Pa., in which 14 railroads challenged the Commission's decision to extend incentive per diem from a six-month to a year-round basis to alleviate the chronic boxcar shortage.

In an attempt to overcome the boxcar shortage within a significant sector of the economy, the Commission issued Car Service Order No. 1134 which limited the free time to five

working days at reconsignment points for shippers of lumber and plywood. The court in *Oregon Pacific Industries, et al. v. United States*, Civil Action No. 73-386, D. Ore., refused to restrain the order during its effective period; at the end of the fiscal year, the merits of the case were still pending before the court.

Another area of growing importance in the courts is the question of the Commission's responsibility under the National Environmental Policy Act. In *United States v. Students Challenging Regulatory Agency Procedures*, 409 U.S. 669, the Supreme Court overturned a district court decision which had reversed a Commission order refusing to suspend a proposed rate increase, and enjoined collection of the increase as to recyclable commodities on the ground that the Commission was obliged to serve an environmental impact statement and otherwise follow the procedures specified by NEPA at the suspension stage of a rate proceeding. The Supreme Court held that environmental interests are sufficient to confer standing on a party seeking to review Commission action on grounds on non-compliance with NEPA. It did not, however, reach the substantive issue of whether the Commission was obligated to comply with NEPA procedures at the suspension stage, holding instead that the courts lacked jurisdiction to review an order declining to suspend or to order the rates themselves suspended during the suspension period. Citing its prior decision in *Arrow Transportation Co. v. Southern Ry.*, 372 U.S. 658 (1963), which had curtailed the jurisdiction of the Federal courts to review the Commission's suspension decisions, the Court ruled that no independent jurisdiction had been conferred by NEPA, since nowhere in the legislative history or the statutory language of NEPA is there any indication that Congress intended to restore to the courts the power, temporarily to suspend railroad rates, which was clearly taken away by section 15(7) of the Interstate Commerce Act.

A companion case, *Students Challenging Regulatory Agency Procedures v. United States*, Civil Action No. 806-72, D. D.C., was awaiting appeal to the Supreme Court at the end of the fiscal year. In that case the district court issued a preliminary injunction against a permanent rate increase on the grounds of a lack of an adequate environmental impact statement.

Harlem Valley Transportation Association, et al. v. George M. Stafford and the Interstate Commerce Commission, Civil Action No.

73 C 1330, S.D.N.Y., illustrates the ever widening application of environmental arguments. There the plaintiffs sought to enjoin the Commission from proceeding with pending abandonment applications unless the Commission filed an environmental impact statement prior to the hearing. The court was requested to declare the Commission's submission to Congress of a preliminary plan for preserving essential rail service in the northeast illegal for lack of an environmental impact statement. As the fiscal year ended, the court indicated it would dismiss the latter request if the Commission submitted an environmental impact statement to Congress along with its proposal to preserve essential rail service in the northeast. The district court did, however, order the Commission to make a threshold NEPA determination at the outset of all abandonment applications, and, if necessary, to require staff preparation of a draft impact statement prior to commencement of hearings.

A matter of overriding concern to the Commission and the courts has been the restructuring of the various bankrupt railroads in the northeast quadrant of the United States. Our staff frequently represented the Commission in the mammoth and ongoing legal proceedings dealing with the various bankrupt railroads. For instance, in *The Matter of Penn Central Transportation Company, Debtor, No. 70-347—The Pennco Settlement*, — F. Supp. —, the court, noting the opposition of the Commission, declined to approve a proposed settlement agreement entered into by the Penn Central trustees and a larger number of banks.

Although the bankruptcy proceedings will be protracted in length, a recent case should help speed up the restructuring process of the northeastern railroads in particular and the abandonment procedure in general. In *Commonwealth of Pennsylvania, et al. v. United States*, Civil Action No. 72-63, M.D. Pa., — F. Supp. —, the three-judge court upheld the Commission's new procedural abandonment rules promulgated in Ex Parte No. 274 (Sub-No. 1), *Abandonment of Railroad Lines*, which establish a rebuttable presumption that public convenience and necessity does not require maintenance of a line if fewer than 34 carloads of freight per mile have been carried during the preceeding year on the trackage sought to be abandoned. Plaintiffs filed a notice of appeal to the Supreme Court.

The same district court earlier, in *Commonwealth of Pennsylvania, et al. v. United States*, Civil Action No. 73-372, — F. Supp.

—, responded to plaintiffs' argument that "the Commission must give simultaneous consideration or consolidation of related and contemporaneously filed abandonment applications in Pennsylvania," by holding that the Commission need not consolidate or give simultaneous consideration to such pending abandonment applications.

In the area of rates, the Supreme Court in *Interstate Commerce Commission v. The Wichita Board of Trade, et al.*, 412 U.S. 800, upheld a district court decision remand, for lack of adequate findings, a Commission decision approving certain separately stated charges for the first in-transit inspection on grain. However, the Supreme Court reversed the district court's judgment insofar as it purported to suspend the rates themselves pending further Commission proceedings, on the ground that in the circumstances such action would interfere with the Commission's primary jurisdiction to determine the justness and reasonableness of proposed rates.

In another rate case, *The Long Island Rail Road Company v. United States*, No. 73-2189, U.S.C.A. 2d Cir., the Commission filed a brief seeking affirmance of the district court opinion in *Ajayem Lumber Corp. v. Penn Central Transportation Company*, 350 F. Supp. 111, upholding the proposition that a single railroad cannot prevent other railroads from seeking a general rate increase merely by refusing to join in the request for an increase, when it fails to follow Commission procedures or its own section 5a agreement.

In *Central of Georgia Railroad, et al. v. United States*, Civil Action No. 2565-72, D.D.C., plaintiffs sought review of the Commission decision in *Clay, Points in Georgia to Savannah & Port Wentworth*, 340 ICC 377, which denied the railroads' request to cancel certain multi-car rates on clay which had been in effect for a number of years. In the pending court action the basic question is whether a railroad can cancel existing multiple-car rates when it fails to show that the savings normally connected with multiple-car rates could not be achieved through more efficient operations.

In the area of rail mergers, the Supreme Court in *Missouri Pacific Railroad Co. v. United States et al.*, and *Kansas City Southern Railway Co. et al., v. United States et al.*, 409 U.S. 1094, summarily affirmed the judgments of the district courts for the western and eastern districts of Missouri approving the merger of the Illinois Central Railroad Co. and the Gulf,

Mobile & Ohio Railroad authorized in *Illinois Central Gulf—Acquisition—G.M. & O., et al.*, 388 ICC 805.

In *Louisville and Nashville Railroad Co. and The Baltimore and Ohio Railroad Co. v. United States*, Civil Action No. 7554, W.D. Ky., — F. Supp. — , the court sustained the Commission's order entered in *Chicago, M., St. P. & P. R.R.—Trackage Rights—Louisville & N.R.R. and Kentucky & Indiana Terminal R.R.*, 342 ICC 578. Pursuant to the approval of the merger of the Monon Railroad into the Louisville and Nashville, a condition had been entered by which the L & N was to allow the Milwaukee Railroad access to Louisville, Ky., where the Milwaukee would initiate a joint-line service with the Southern Railway to provide competition for L & N on traffic moving between Chicago and the southern United States via Louisville. In the order successfully defended in court, the Commission directed the L & N to discharge its duty by allowing the Milwaukee to gain access to Louisville.

In *State of North Carolina ex rel. North Carolina Utility Comm'n v. United States*, 347 F. Supp. 103 (E.D.N.D. 1972), aff'd. 410 U.S. 919, the court held for the first time that section 13(4), as amended by the Transportation Act of 1958, authorizes railroads to come directly to the Interstate Commerce Commission when seeking to remove intrastate discriminations and prejudices. The state had argued that under section 13(4) the railroads must come to the state agencies in the first instance before recourse could be had before the Commission.

In *Bray Lines, Inc. v. United States*, Civil Action No. 72-284, W.D. Okla., 353 F. Supp. 1240, pending an appeal, the court affirmed the Commission's grant of a common carrier certificate in *American Farm Lines Common Carrier Application*, 114 MCC 30. In sustaining the Commission's decision, the court held that an agricultural cooperative performing exempt transportation under section 203(b)(5) of the Act is not precluded from receiving a certificate of public convenience and necessity; and that there is no conflict of interest caused by the fact that a carrier performs for-hire transportation under a certificate as well as exempt farm-related transportation.

In *REA Express, Inc. v. The Alabama Great Southern Railroad Company, et al.*, 412 U.S. 934, the Supreme Court affirmed a three-judge court's order refusing to vacate a stay in its own proceeding, and refusing to enjoin the Commission from proceeding in reopened Finance Docket No. 20812, *Railway*

Express Agency, Inc., Notes, to determine whether certain non-negotiable notes previously issued by REA actually constitute debt or equity.

In *Middle Atlantic Conference, et al. v. United States*, 353 F. Supp. 1109, the District Court for the District of Columbia affirmed the Commission's order issued in *Payment for Detention Charges, Eastern Central States*, 335 ICC 537. There the Commission prohibited the motor carriers from specifying in their tariffs those persons (such as warehousemen, pier operators, brokers, and steamship agencies) regarded by the carriers as being liable for the undue detention of trucks while loading or unloading. Some of the plaintiffs had previously attempted to use their tariffs as devices to impose liability on certain persons with whom they had not contracted to haul freight, when their trucks were unduly detained at such persons' premises. See *Detention of Motor Vehicle—Middle Atl. & New England*, 318 ICC 593, 325 ICC 336.

In the field of private versus for-hire carriage, the District Court for the District of Columbia in *National Motor Freight Traffic Association v. United States*, Civil Action No. 480-71. F. Supp. , sustained the Commission's conclusion that an operation in which both vehicles and drivers are leased from the same source can still constitute private carriage, provided the company maintains actual control over the operations and assumes in significant measure the characteristic burdens of the transportation business, *Ontario Company—Declaratory Order*, 112 MCC 211. This is the first such court case to support the principle.

Legislation

The Commission's involvement in legislation includes its presentations in support of the appropriations recommended for the agency, its own proposals for statutory revisions to enhance the regulatory system, and its comments and testimony on proposals generally prompted by others. Budgetary data appears on page 127.

Commission Budget

Regular appropriations—The President's budget for the 1974 fiscal year includes \$35 million and 1,935 positions for Commission operations. On March 29, 1973, the Commission

appeared before the House Subcommittee on Transportation Appropriations with respect to its 1974 budget request. The House, on June 20, 1973, passed H.R. 8760 which provides appropriations for the Department of Transportation and related agencies for the fiscal year ending June 30, 1974. Included is \$34,750,000, providing for 1,935 positions for the Commission. The \$250,000 reduction is to be applied to the Commission's request for the special investigation of the railroad freight rate structure. On June 21, 1973, H.R. 8760 was referred to the Senate Committee on Appropriations. Since the Commission did not appeal the budget reduction approved by the House, no hearings were held by the Senate. On August 16, 1973, Public Law 93-98 was signed providing \$34,750,000 to the Commission in fiscal year 1975.

Payment of loan guarantees—On September 28 and October 7, 1972, the Commission appeared before the House and Senate Subcommittees on Transportation Appropriations, respectively, to request a supplemental appropriation for fiscal year 1973 regarding repayment of a government guaranteed loan made to the Erie-Lackawanna Railway Company. Public Law 92-607 was signed October 31, 1972, and the Commission received \$12 million, plus \$323,000 for interest, to pay the loan defaulted by the Erie-Lackawanna.

Commission Proposals

In fiscal 1973 the Commission submitted three legislative recommendations to the 93rd Congress.

Mandatory service over lines of a non-operating carrier—On March 8, 1973, the Commission submitted a draft bill to the Congress which would amend section 1(16) of the Interstate Commerce Act to empower the Commission to direct one railroad to operate over the tracks of another when the latter is unable to transport essential tendered traffic. The Commission stressed the importance of early enactment because of the current railroad crisis.

The legislation was introduced in the Senate on May 31, 1973, as S. 1925 and in the House on March 13, 1973, as H.R. 5512. S. 1925 was favorably reported with amendments by the Senate Committee on Commerce on July 6, 1973. It passed the Senate on July 14, 1973, and was referred to the House of Representatives.

Through routes and joint rates—Also submitted on March 8,

1973, was a draft bill which would amend section 216 of the Interstate Commerce Act to enable the Commission to order the establishment of through routes and joint rates between motor common carriers of property, and between those carriers and carriers subject to parts I and III of the Act. Should such legislation be enacted, it will give the Commission a vitally needed tool in solving the small shipments problem.

Northeast rails—On March 26, 1973, the Commission issued a report ¹ containing a draft bill outlining a plan for reorganizing and restructuring rail transportation in the northeast quadrant of the nation.

This bill, the Federal Aid Railroad Act of 1973, was introduced in the House of Representatives on April 4, 1973, as H.R. 6591 and in the Senate as S. 1892 on May 29, 1973. The House held hearings on the bill, in addition to other legislation intended to cope with the same problem, on April 16, 1973. The Senate held hearings on the same problem, on April 16, 1973. The Senate held hearings on the northeast rail crisis on May 31, 1973. The summary of those hearings on page 10 outlines the major provisions of our bill.

Other Proposals

Emergency rail facilities restoration—In connection with the hearings held by the Senate Subcommittee on Surface Transportation on S. 3843, the "Emergency Rail Facilities Restoration Act", the Commission made a presentation in support of the basic intent of the legislation. The bill authorized the Secretary of Transportation to make loans up to \$40 million to certain railroads for the restoration of essential facilities damaged by natural disasters in June 1972.

The Commission stated that it shared the national concern over the damage ravaged on certain sectors of the country by Hurricane Agnes and the floods in South Dakota. We pointed out that the early restoration of rail service was essential to revitalization of these areas, but that such a move would require substantial outlays of funds by the carriers, some of which were in bankruptcy or in marginal financial condition. The loans available under S. 3843 were aimed at solving this problem.

While the Commission supported the overall intent of the legislation, we suggested several refinements which would make the bill

¹ Ex Parte No. 293 *Northeastern Rail Investigation*.

more effective in achieving the stated purpose. For the most part, our suggestions were adopted.

S. 3843 passed the Senate on October 6, 1972, and the House on October 13, 1972. It was signed by the President on October 27, 1972, and became Public Law 92-591.

Freight car shortages—On January 29, 1973, the Commission testified before the Subcommittee on Agricultural Production, Marketing, and Stabilization of Prices of the Senate Committee on Agriculture and Forestry on the freight car supply situation. The Senate Special Subcommittee on Freight Car Shortages also conducted hearings on this problem with specific emphasis on S. 1149, a bill designed to increase the nation's rail car fleet and to improve its utilization. The Commission testified before the Special Subcommittee March 16, 1973, and outlined the car supply situation and the corrective actions taken.

The Commission pointed out that despite its efforts, existing methods for eliminating the freight car problem have not been satisfactory. We stated that S. 1149 was a workable approach to diminishing the twin problem of freight car supply and utilization.

The bill would (1) establish a federal railroad equipment obligation insurance fund; (2) establish a national freight car information system; (3) create a Rolling Stock Authority; and (4) establish protective arrangements for employees effected by the legislation.

S. 1149 was favorably reported by the Senate Committee on Commerce on July 6, 1973 (Report No. 93-303), and passed the Senate on July 23, 1973. See also page

Northeast rail crisis—On April 16, 1973, the Commission testified before the House Subcommittee on Transportation and Aeronautics on H.R. 4897, H.R. 5822, H.R. 6591, and H.J. Res. 50, legislation proposing solutions to the railroad crisis. The Commission pointed to the dismal financial state of the railroads in the northeast quadrant of the United States and expressed the view that only significant federal action can solve the problem. We also stressed that, since the railroads operate as a single system, the problem is not confined to the northeast.

The Commission prepared a detailed analysis of each bill. Generally, we felt that H.J. Res. 50 would tend to nationalize the Penn Central and for that reason, we did not support its enactment. We also opposed the creation of a new corporation

to operate the railroads and expressed the belief that the railroads should remain under private ownership. For these reasons, we did not favor enactment of H.R. 4897 and H.R. 5822.

The Commission stated that nothing short of a substantial restructuring and reconstruction of the basic rail system in the northeast could restore the system to its rightful competitive position. The Commission's plan, introduced as H.R. 6591, proposed a government program of significant dimensions to provide the funding to rebuild the railroad system in the northeast.

We also provided the Committee with a detailed section-by-section analysis of our proposal which accompanied our March 26 report in Ex Parte No. 293, *Northeast Railroad Investigation*. The bill laid out a three-part plan to deal with various aspects of the railroad problem. Final action had not been taken on the legislation by the end of the fiscal year.

Briefly, Title 2 of the bill sets forth an interim program to deal with the emergency situation in the Northeast. This consists of a temporary operating subsidy program to keep needed services operating long enough to get the railroads out of reorganization and to give the long-range programs time to accomplish their goals.

Title 3, the Commission explained, provides a long-range capital improvement program and Title IV contains a proposal for dealing with low-density rail lines.

The Senate Subcommittee on Surface Transportation also conducted hearings on the northeast rail crisis and the Commission appeared before that Subcommittee on May 31, 1973. In our testimony we reiterated our belief that only major government involvement could restore the quality of rail transportation. We detailed our proposal to deal with the crisis which was subsequently introduced as S. 1892, the Federal Aid Railroad Act. See also page

Railroad retirement—rate adjustment—In conjunction with hearings held by the House Subcommittee on Transportation and Aeronautics of the House Committee on Interstate and Foreign Commerce on May 1 and 2, 1973, the Commission presented its views on H.R. 7200.

The Commission directed its comments to the Title II amendments to the Interstate Commerce Act relative to rate adjustments. That portion of the bill establishes a statutory mechanism for recoupment of increased costs incurred by Part I carriers resulting from (1) taxes levied pursuant to the

Railroad Retirement Tax Act; and (2) all negotiated labor costs and comparable costs for other employees. This would be accomplished by providing for rate increases "approximating that needed" to offset increased costs. While the Commission said that it was not opposed to facilitating prompt recoupment of increased costs, it had a number of objections to the legislation as drafted. Some of these objections were met by subsequent amendments to the bill.

H.R. 7200 passed the House with amendments on May 22, 1973, and an amended version passed the Senate on June 19, 1973. A conference report was submitted to both Houses on June 22, 1973, and was subsequently adopted. The legislation became Public Law 93-69 on July 10, 1973, and appropriate procedures have been established by the Commission for its implementation.

Amtrak—The Senate Subcommittee on Surface Transportation conducted hearings May 18, 1973, on S. 1763, "a bill to provide financial assistance to the National Railroad Passenger Corporation (AMTRAK) and for certain amendments to the Interstate Commerce Act." In conjunction with those hearings, the Commission presented its views on the legislation, detailed actions it has taken to assist in improving Amtrak's performance, and made tentative recommendations for improving the ability of Amtrak to provide better service in the future.

The proposed legislation would establish procedures for acquisition of property by Amtrak; amend procedures for discontinuing service on trains within the basic system; change the reporting date for Amtrak's annual report to Congress; increase the federal government's financial commitment to Amtrak; and readjust jurisdiction over control of adequacy of service.

While the Commission supported the provisions relative to Amtrak's acquisition of property and increased funding, it objected to some of the bill's other provisions. For example, we opposed that portion of the bill which would allow Amtrak to discontinue service within the basic system after July 1, 1973, without complying with section 13(a) of the Interstate Commerce Act. We stated that this provision was at odds with the original intent of the legislation that created Amtrak and that such an approach would ignore the test of public convenience and necessity.

The Commission also opposed enactment of the section of the bill which would prohibit it from making regulations

concerning "the scheduling or frequency of service, or the number of types of cars in a train, or that otherwise conflict with the service characteristics established by the Secretary for the basic system." The Commission expressed the belief that quality of service is inextricably intertwined with adequacy of service. The present statute clearly gives the Commission authority over adequacy of service.

The House Subcommittee on Transportation and Aeronautics held hearings on June 12, 1973, on identical legislation and the Commission expressed its views on the legislation to that Subcommittee.

Recycling—On June 11, 1973, the Commission testified before the Subcommittee on the Environment of the Senate Committee on Commerce on S. 1112, S. 1593, and S. 1879. The purpose of the bills is to promote the transportation and use of recycled or recyclable materials. The Commission and the Federal Maritime Commission would be required to conduct investigations, identify, and eliminate all transportation rates and practices which discriminate against recycled or recyclable materials. The bills further provide that any rate on these materials equal to or higher than the rate charged for the same transportation of a like quantity of a competing natural resource or commodity having a higher commercial value shall be presumed to be unreasonable and discriminatory. They also urged federal purchase and utilization of recycled materials.

The Commission supported that portion of the legislation dealing with federal purchase of recyclable materials and pointed out that we suggested such a measure in our report in Ex Parte No. 281, *Increased Freight Rates and Charges*, 1972, 341 ICC 288.

The Commission expressed its vital concern for the maintenance of our environment and the wise use of our natural resources. However, our belief is that the achievement of these purposes can be accomplished within the existing regulatory framework.

The Commission stated that it presently regulates surface transportation rates so as to assure reasonable rates for transportation of recycled products. We also pointed out that the National Environmental Policy Act of 1969 requires us to consider the environmental effects of our actions.

Also, the Commission said, its procedures whereby shippers, carriers, and the consuming public can file formal protests to

rate increases provide the appropriate machinery for evaluating whether specific rates are discriminatory. It is our opinion that spending federal funds to investigate each of the hundreds of thousands of rates on file would not be a wise use of taxpayers' funds.

We also opposed that section of the bill which provides that higher rates for the transportation of recyclable materials shall be presumed to be discriminatory. In support of this position, we cited a Supreme Court decision in *United States v. Illinois Central R.R.*, 263 U.S. 510 (1923), which ruled that differences in rates in and of themselves do not establish their illegality. Other factors, such as difficulty in handling, must also be considered in determining reasonableness of rates. The Commission stated that enactment of this portion of the legislation would require carriers and shippers to bear an unreasonable measure of the social costs of environmental improvement.

Barge movements—On June 15, 1973, the Commission testified before the Subcommittee on Merchant Marine of the House Committee on Merchant Marine and Fisheries on H.R. 736 and H.R. 4009, identical bills which would confer upon the Federal Maritime Commission exclusive jurisdiction over certain barge movements deemed to be substituted service in lieu of a direct vessel call at a port.

The existing regulatory scheme confers jurisdiction upon the ICC over domestic water movements, including the domestic portion of a through foreign movement when there is a transshipment in interstate commerce. However, we stated that we have no objection to enactment of this legislation as long as the change in jurisdiction is restricted to only the specific type of operation detailed in the bill.

ADMINISTRATION

Cae-load

Progress was made this year in keeping ahead of the volume of incoming cases, the highest percentage of which involve applications for motor carrier operating authority. During the fiscal year ended June 30, 1973, 8,831 cases were closed, 244 more than the incoming number. Statistics appear in the appendix, page 108.

Management

Organization Changes

Although no major organizational changes were made during the year, functional realignments were implemented within the Bureau of Accounts in order to streamline certain procedures. These basically involved the transfer of the valuation function to the Section of Cost Finding and the transfer of the depreciation function to the Section of Accounting. The water carrier and freight forwarder functions also were restructured within the Bureau of Operations and the Office of Proceedings.

In recognition of the need to provide the Commission and its staff with additional data to assist in rendering timely decisions and also to achieve better management controls, responsibility for coordinating and monitoring all computer operations was relocated in the immediate Office of the Managing Director. During the year, actions were initiated to evaluate existing computer programs and their continued necessity, to identify new applications for future planning, and to establish distinct production priorities.

Management Improvement

The Commission initiated a program evaluation system in 1964 for the purpose of monitoring performance within major programs as compared to Commission goals and

pinpointing problem areas, such as duplication of effort, poor productivity, inefficient operations, and backlogs. The evolution of this program for improved management has involved the establishment of various goals and measurement of the actual performance for the major Commission work areas. Our objectives have been to identify major work areas where improvements could be made and, by assigning performance indicators and monitoring actual production, determine whether the planned improvements were, in fact, realized.

Under the auspices of the Office of Management and Budget, a governmentwide management review and improvement program has been established. Early in fiscal 1973, the Commission submitted its first report to the Office of Management and Budget under this program. This program required each agency to establish a formal framework for continuous review of program operations and, as a result of the review, implement management actions designed to increase productivity, render more timely service, provide a better quality output or service, and generally reduce the cost of its operating programs.

Although the OMB's Management Review and Improvement Program does have some minor variations from the program previously established in the Commission, we were able to implement the program very easily based upon historical approaches. The three prime areas of the program, at least from OMB's standpoint, are (1) management review, (2) priority improvement projects, and (3) cost reduction.

The Commission's report to OMB for fiscal 1973 has been used as a model for other agencies in implementing their operations of the program. Savings under the cost reduction portion of the Management and Review Program amounted to \$99,400 in fiscal 1973. The savings resulted from the following actions: paperwork reduction (\$17,200); automation of manual operations (\$18,900); and revisions in procedures (\$63,300).

Continued reliance on the Management Review & Improvement Program within the Commission has resulted in an ability to better control on-going projects and provide resources for crash projects, such as evaluation of the northeast rail situation, priority emphasis upon the rail car shortage situation, vigorous response to consumer problems in the household goods moving area and, generally, an ability to

assign resources to priority projects with a recognition of other operational impacts.

Field Activities

Our field operations are conducted from 78 offices located in 48 states and the District of Columbia as shown in appendix A. The table on page illustrates some of the principal work items handled by our field staff. Severe budgetary limitations that continued over several preceding years were somewhat eased this year. However, continuing increases in our work load more than offset the limited additions that have been feasible within the field staff. Most of our field offices continue to be staffed with three or fewer employees.

The Commission continued emphasizing the prompt handling of consumer complaints of all types. Four transportation consumer specialists were employed during the year and stationed at strategic locations where consumer complaints have been the heaviest. These and other members of the field staff placed emphasis upon assisting shippers of household goods and the smaller shippers of general commodities in the intricacies of transportation.

Additionally, the field staff was active in investigating all phases of the household goods moving industry. This resulted in an accumulation of evidence of substantial violations of the law and of our regulations. The findings were used to support formal investigation and revocation proceedings against a number of large motor carriers of household goods.

To assure a vital program in future enforcement, special emphasis was placed during the year at staff conferences held both in Washington, D.C., and in our six regional headquarters, on the following priority areas:

- Any situation in which it can be shown that inadequate service is being given by a carrier, together with any complaints affecting the normally unsophisticated consumer;
- Any situation where there is reason to believe that the provisions of applicable tariffs are not being strictly adhered to, including any device to grant rebates, concessions or unauthorized services, whether the device is simple or complex;

- Any situation where inadequate car service or violation of any service order takes place;
- Any failure of a carrier to comply with applicable insurance coverage requirements;
- Any situation involving the performance of substantial unauthorized transportation.

Every reasonable effort was made to properly deploy our manpower and to promptly handle and respond to complaints. At the same time, a vigorous compliance and enforcement program was carried out, aimed at ferreting out and eradicating unlawful practices harmful to the public interest. The Commission continued its active participation in the various programs of Federal Executive Boards and also supported the Defense Mobilization Programs sponsored by the Office of Emergency Preparedness. The table on page 113 reflects the status of our executive recruitment efforts and membership in the Commission's executive reserve unit.

Automatic Data Processing

Our need for additional information expands in relation to the growing complexity of the transportation industry. A continuous flow of current information could be a major aspect in speeding up the process of reaching decisions within the Commission. In recognition of this need, a series of actions was taken this year to enhance our ADP posture.

An outside consultant was retained to review our current status and to identify areas likely to yield immediate benefits. This involved review of the techniques we should use to improve the Commission's ability to take advantage of modern technology in information processing. One of the recommendations of the consultant was that emphasis in the Managing Director's Office should be expanded in this area. A specialized task force was created to review overall information requirements in conjunction with the various bureaus and offices. This review should identify major projects to be undertaken as a method of improving the current information flow.

Recognizing that systems development efforts are normally long-term, some immediate actions were taken to improve both our processing and data-capturing capabilities. For the first time, the Commission now has direct access storage

devices, otherwise known as discs, attached to a Series 70 Computer System. This acquisition permits both more sophisticated processing and quicker access to data, in that the former requirement of magnetic tapes, which was to process everything in a serial manner, is partially eliminated. Since timeliness is one of the major criteria in evaluating the usefulness of data, we also reviewed the data-capturing process formerly accomplished through keypunching. Based upon this review, a specialized key-to-disc-to-tape data-capturing system, manufactured by Inforex, was installed during the last half of the fiscal year. This operation involves the use of terminal keyboards with TV tube-type displays of data in lieu of the keypunch machines formerly used. The results of installation of this system are quicker reduction of information to computer-amenable form and better quality of data in terms of accuracy. It is hoped that this operation can be expanded to the point of directly placing an input terminal in certain of the operations, enabling the users of data to bear the responsibility of entering it into the computer. It is anticipated that this will provide an even greater level of timeliness and accuracy.

In addition to the above in-house improvements, a small on-line system was developed and instituted in conjunction with the Office of Proceedings. This is the first on-line application within the Interstate Commerce Commission and identifies the posture of the various rail abandonment cases within ICC. The high-level of interest on the part of users in this application indicates a growing desire to apply similar technological techniques to other information areas. Probably the most significant benefit provided by this system is the immediate availability of case information without going through a programmer or scheduling a computer run. This capability has enabled the Commission to respond more rapidly to inquiries from the public, from Congress and from state regulatory agencies, and to rebut certain claims of the railroad industry regarding delays in processing of abandonment cases. At the same time, the availability of immediate information has permitted us to exercise an even greater degree of control on the activities of processing the cases themselves.

Paperwork Reduction

The Commission's continuous emphasis upon protecting the

interests of the total public results in a large volume of paper generation. During the past year, the Commission continued its priority efforts to reduce the totality of the paper work through forms improvement, records retirement, internal reorganization, and the solicitation of support from the National Archives and Records Service to assure that we have not overlooked any areas of great potential.

Improvements in reporting and record-keeping procedures were provided by the design or redesign of a number of forms. A total savings of \$17,200 was accomplished through these improvements. For the third year in a row, records disposition was a priority effort.

A major purge of docket files, incorporating a new system for the identification and retirement of active dockets, resulted in the retirement to the Federal Records Center of 6,820 cubic feet of dockets.

This was the first major docket purge in five years. Under the new, stricter procedures, dockets will now be selected monthly for retirement, consistent with the public interest, and sent to storage quarterly. A total of 7,430 cubic feet of records was placed in storage this year.

Distribution facilities within the Commission were consolidated through internal reorganization, permitting better control of reproduction counts and concurrently eliminating up to thousands of pages per day of surplus printed matter.

Steps were taken to automate the process serving function and thus speed up the release of Commission orders, reports, and notices. The design of the system is intended to assure more accuracy in the maintenance of service lists and reduce the time and effort formerly required to make legal service on the parties to proceedings cases. As much as 80 per cent of the workload is susceptible to the new procedure.

Personnel Management and Manpower Development

In order to implement President Nixon's memorandum of September 6, 1972, and the Civil Service Commission, Office of Management and Budget, *Guidelines for the Management and Organization of Agency Responsibilities Under the Federal Labor-Management Relations Program*, the Commission developed a Labor-Management Relations program plan which calls for: (1) the maintenance of constructive and forward-looking labor-management relations; (2) intramanagement communi-

cations and consultation with associations of supervisors and management officials; (3) support and assistance of union representatives in improving the quality and quantity of work, fostering a positive and affirmative attitude among employees in the work place, meeting equal employment opportunity program objectives, and informal solution to EEO-related personnel problems; and (4) training of supervisors and managers in labor-management relations.

The Commission's equal employment opportunity program has been designed in conformity with Executive Order 11478 and guidelines issued by the Civil Service Commission. The purpose of the Commission's plan of action is to insure equal opportunity in employment to all qualified persons; to prohibit discrimination; and to promote full utilization of the work force. The Commission's plan establishes procedures for recruitment, maximum utilization, training, promotion, and supervisory performance. Supervisors at all levels are responsible for: (1) maintaining and encouraging the EEO affirmative Plan of Action; (2) fostering employment programs which are designed to aid the disadvantaged; (3) insuring that minorities and women are aware of and admitted to all training opportunities; and (4) pointing out possibilities for promotions through job redesign, reclassification, upgrading, and employee training.

Positive steps have been taken to insure effective utilization of authorized positions within the Commission. Job-design efforts have contributed to better recognition and retention of key employees and the efficient accomplishment of the technical and administrative tasks of our mission. Bridge positions have been established to overcome socio-economic employment and promotion patterns that frustrate the disadvantaged or female members of the work force.

Recognizing the need to provide for continuity of operations within the Commission and to infuse the experienced professional elements with a fresh approach, a priority effort to recruit professional trainees was continued throughout the fiscal year. Recent college graduates were employed in the majority of 38 traffic and accounting specialists recruitments where previously the bureaus recruited experienced individuals from the rail and motor industry. Thirty-six of the 37 new employees within the Office of Proceedings were made at the

entrance level for new attorneys, and the positions filled with recent law school graduates.

To improve personnel proficiencies during the year, approximately 6,000 hours of training at the Commission and 10,600 hours through the use of interagency and non-government facilities were utilized. Training at the Commission included continuation of our special legal instruction for new attorneys, supervisory training for newly appointed line supervisors and basic adult education for our Upward Mobility Program. Our employees' assignments in management and executive training included participation in Management Institute for Attorneys, Middle Management Institute, and Advanced Management, and courses at the Federal Executive Seminar Center and the Federal Executive Institute. Implementation of the President's Upward Mobility Program assisted employees to secure their high school equivalency certificates by arranging classes at adult education centers and providing financial assistance for them to attend colleges and universities during off-duty hours. Shorthand training was also provided in order that interested employees could enter new fields leading to advancement.

Administrative Services

Launched early in the year with a policy statement by the Chairman, a new and revitalized occupational safety and health program was established. Stating that the prevention of all occupationally induced injuries and illnesses would be given the highest priority, he set up an active working organization, including a full-time safety officer and a safety committee composed of representative segments of both management and organized labor within the Commission. Through full implementation of the program, noticeable improvements for safeguarding the working force already have been accomplished. The President's "Zero-In on Federal Safety" is a reality at ICC, not merely a slogan.

An achievement both in safety and greater productive efficiency was the full-scale remodeling of the ICC printing plant. Acoustical walls and lowered ceilings with recessed lighting, new tile floors, and a vastly improved equipment layout with better utilization of space were included in the improvements.

Attractive new hearing room facilities with appropriate judicial atmosphere were completed in Philadelphia, Pa., Kansas City, Mo., and Omaha, Neb. Plans call for a continuation of this program with the addition of three more such facilities.

APPENDIX A—COMMISSION ORGANIZATION

The major bureaus and offices of the Commission are listed below. Heads of each bureau or office report to the Chairman via the channels indicated on the organization chart, page 107.

STAFF OFFICIALS

Office of the Chairman—Public Information Office

Public Information Officer	Warner L. Baylor
Press Information Officer	Edgar B. Hamilton, Jr.

Office of the Managing Director:

Managing Director	Robert L. Rebein
Assistant Managing Director	Joel E. Burns
Assistant to the Managing Director—	
Information Systems	John P. Kratzke
Director of Personnel	Curtis F. Adams
Budget & Fiscal Officer	Alan M. Fitzwater

Office of the Secretary/Congressional Relations:

Secretary	Robert L. Oswald
Assistant Secretary	Joseph M. Harrington

Office of the General Counsel:

General Counsel	Fritz R. Kahn
Deputy General Counsel	Arthur J. Cerra
Legislative Counsel	Larry T. Reida

Office of Proceedings:

Director	Sheldon Silverman
Associate Director	Robert J. Brooks
Deputy Director, Section of Finance	John L. Boyd, Jr.
Deputy Director, Section of Operating Rights	Henry U. Snavelly
Deputy Director, Section of Rates	Joseph T. Fittipaldi

Office of Hearings:

Chief Administrative Law Judge	Robert C. Bamford
Assistant Chief Administrative Law Judge	James E. Hopkins

Assistant Chief Administrative Law	
Judge	William J. Bateman
Bureau of Accounts:	
Director	John A. Grady
Assistant Director	James B. Thomas, Jr.
Bureau of Economics:	
Director	Vacant
Assistant Director	Robert G. Rhodes
Bureau of Enforcement:	
Director	Bernard A. Gould
Assistant Director	Robert S. Turkington
Assistant Director	Daniel M. O'Donoghue
Bureau of Operations:	
Director	Robert D. Pfahler
Assistant Director	Lewis R. Teeple
Bureau of Traffic:	
Director	Martin E. Foley
Assistant Director	Ernest R. Olson

Directory of Interstate Commerce Commission Field Offices

Regional head- quarters	Robert L. Abare, Regional Manager, 150 Causeway Street, Fifth Floor, Boston, Mass. 02114.
Connecticut	324 U.S. Post Office, 135 High St., Hart- ford, Conn. 06101.
Maine	305 U.S. Post Office and Courthouse, 76 Pearl St., Portland, Maine 04112. Mail address: Post Office Box 167, P.S.S.
Massachusetts	150 Causeway Street, Fifth Floor, Boston, Mass. 02114.
New Hampshire ..	424 Federal Bldg., 55 Pleasant St., Con- cord, N.H. 03301.
New Jersey	9 Clinton Street, Room 618 Newark, New Jersey 07102. 204 Carroll Bldg., 428 East State St., Trenton, N.J. 08608.
New York	518 New Federal Bldg., Maiden Lane and Broadway, Albany, N.Y. 12207. 612 Federal Bldg., 111 West Huron St., Buffalo, N.Y. 14203. 26 Federal Plaza, Room 1807, New York, N.Y. 10007.

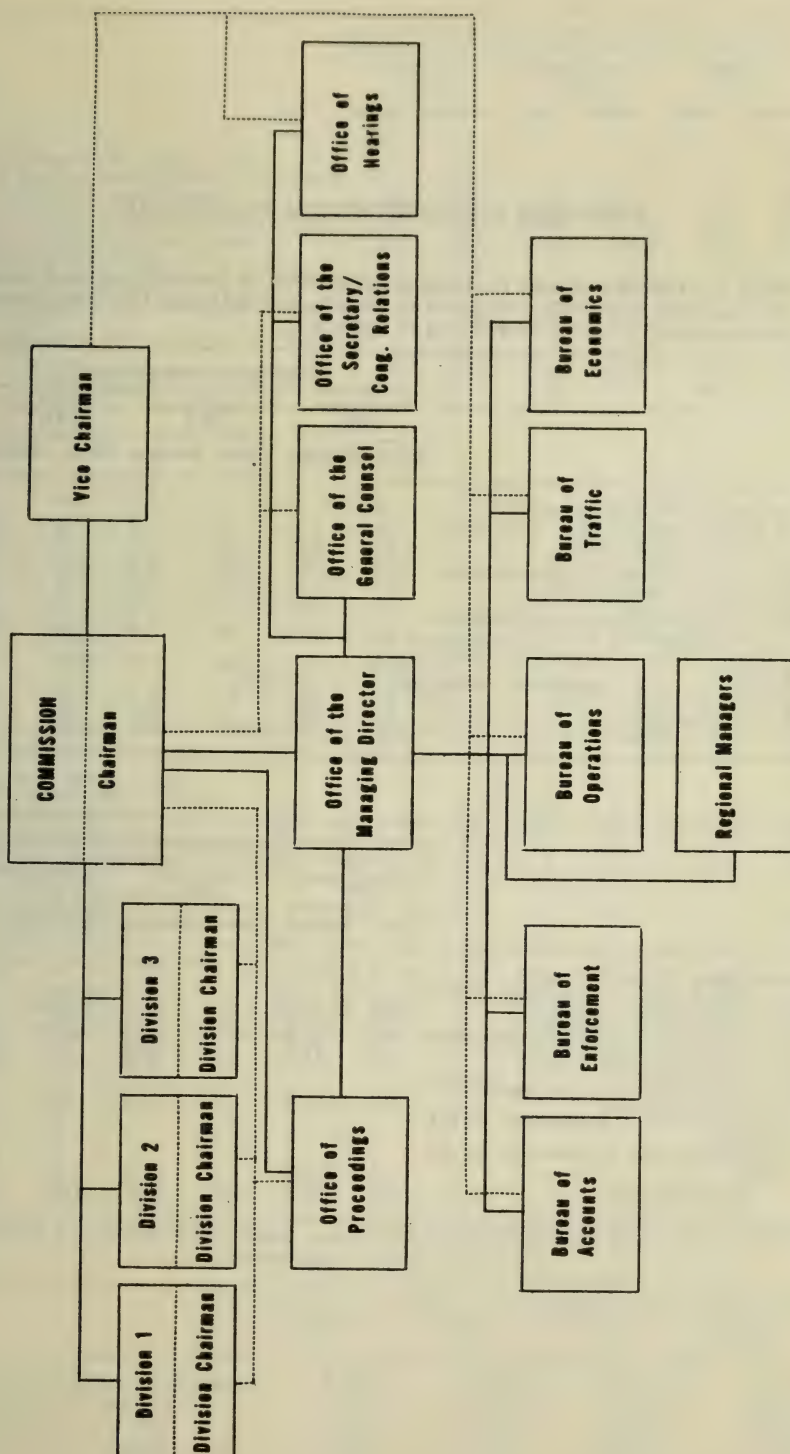
- O'Donnell Bldg., Room 104, 301 Erie Blvd., West, Syracuse, N.Y. 13202.
- Rhode Island 187 Westminster St., Room 402, Providence, R.I. 02903.
- Vermont 52 State St., Room 5, Montpelier, Vt. 05602.
- Regional headquarters Fred E. Cochran, Regional Manager, William J. Green, Jr., Federal Bldg., 600 Arch Street, Room 3238 Philadelphia, Pa. 19106.
- Delaware See nearest ICC Field Office in New Jersey, Maryland, or Pennsylvania.
- District of Columbia 12th and Constitution Ave., N.W. Washington, D.C. 20423.
- Maryland 814-B Federal Bldg., Charles Center, 31 Hopkins Plaza, Baltimore, Md. 21201.
- Ohio 5514-B Federal Bldg., 550 Main St., Cincinnati, Ohio 45202
181 Federal Bldg., 1240 East 9th St., Cleveland, Ohio 44199.
255 Federal Bldg. and U.S. Courthouse 85 Marconi Blvd., Columbus, Ohio 43215.
534 Federal Bldg., 234 Summit St., Toledo, Ohio 43604.
- Pennsylvania 508 Federal Bldg., 228 Walnut St., Harrisburg, Pa. 17108. Mail address: Post Office Box 869.
William J. Green, Jr., Federal Bldg., 600 Arch Street, Room 3238 Philadelphia, Pa. 19106.
2111 Federal Bldg., 1000 Liberty Ave., Pittsburgh, Pa. 15222
309 U.S. Post Office, North Washington Ave., and Linden St., Scranton Pa. 18503.
- Virginia 10-502 Federal Bldg., 400 North 8th St., Richmond, Va. 23240.
5104 F. B. Thomas Bldg., 215 Campbell Ave., S.W., Roanoke, Va. 24011.
- West Virginia 3108 Federal Bldg., 500 Quarrier St., Charleston, W. Va. 25301.
416 Old Post Office Bldg., 12th and Chapline Sts., Wheeling, W. Va. 26003.

Regional head- quarters	James B. Weber, Regional Manager, 1252 West Peachtree St., N.W., Room 300, Atlanta, Ga. 30309.
Alabama	2121 Bldg., Room 814, 2121 8th Ave., North, Birmingham, Ala. 35203.
Florida	288 Federal Bldg., 400 West Bay St. Jack- sonville, Fla. 32202. Mail address: Building Box No. 35008. 105 Cox Bldg., 5720 S.W. 17th St., Miami, Fla. 33155.
Georgia	1252 West Peachtree St., N.W. Room 300, Atlanta, Ga. 30309.
Kentucky	Bakhaus Bldg., Room 222, 1500 West Main St., Lexington, Ky. 40505. 426 U.S. Post Office, 601 West Broad- way, Louisville, Ky. 40202.
Mississippi	145 East Amite Bldg., Room 212, Jack- son, Miss. 39201.
North Carolina ...	Rm. CC-516 Mart Office Bldg., 800 Briar Creek Rd., Charlotte, N.C. 28205. Federal Bldg., Room 624, 310 New Bern Ave., Raleigh, N.C. 28202.
South Carolina	300 Columbia Bldg., 1200 Main St., Col- umbia, S.C. 29201.
Tennessee	435 Federal Bldg., 167 North Main St. Memphis, Tenn. 38103.
Regional head- quarters	Alfred E. Rathert, Regional Manager, Everett McKinley Dirksen Bldg., Room 1086, 219 South Dearborn St., Chicago, Ill. 60604.
Illinois	Everett McKinely Dirksen Bldg., Room 1086, 219 South Dearborn St., Chicago, Ill. 60604. 414 Leland Office Bldg., 527 East Capitol Ave., Springfield, Ill 62701.
Indiana	Century Bldg., 8th Floor, 36 South Penn- sylvania St., Indianapolis, Ind. 46204. 345 West Wayne St., Room 204, Fort Wayne, Ind. 46802.
Michigan	1110 David Broderick Tower Bldg., 10 Witherell St., Detroit, Mich., 48226. 225 Federal Bldg., 325 West Allegan St., Lansing, Mich. 48933.

Minnesota	448 Federal Bldg. and U.S. Courthouse, 110 South 4th St., Minneapolis, Minn. 55401.
North Dakota	Federal Bldg., and U.S. Post Office, 657 Second Ave. North, Fargo, N. Dak. 58102. Mail address: Post Office Box 2340.
South Dakota	Federal Bldg., Room 369, Pierre, S. Dak. 57501.
Wisconsin	139 West Wilson St., Room 202, Madison, Wis. 53703. 135 West Wells St., Room 807, Mil- waukee, Wis. 53203.
Regional head- quarters	Harold M. Gregory, Regional Manager, 9A27 Fritz Garland Lanham Federal Bldg., 819 Taylor St., Fort Worth, Tex. 76102.
Arkansas	2519 Federal Bldg., Little Rock, Ark. 72201.
Iowa	875 Federal Bldg., 210 Walnut St., Des Moines, Iowa 50309.
Kansas	234 Federal Bldg., Topeka, Kans. 66603. 501 Petroleum Bldg., 221 South Broad- way, Wichita, Kans. 67202.
Louisiana	T9038 Federal Bldg., and U.S. Post Of- fice, 701 Loyola Ave., New Orleans, La. 70113.
Missouri	1100 Federal Bldg., 911 Walnut St., Kan- sas City, Mo. 64106. 210 North 12th St., Room 1465, St. Louis, Mo. 63101.
Nebraska	320 Federal Bldg., and U.S. Courthouse, 129 North 10th St., Lincoln, Nebr. 68508.
Oklahoma	240 Old U.S. Post Office and Cour- thouse, 215 Northwest 3d St., Ok- lahoma City, Okla. 73102.
Texas	1012 Herring Plaza, 317 East 3d St., Amarillo, Tex. 79101. Mail address: Herring Plaza Box H-4395. 1100 Commerce St., Rm. 13C12, Dallas, Tex. 75202. 9A27 Fritz Garland Lanham Federal Bldg., 819 Taylor St., Fort Worth, Tex. 76102.

	8610 Federal Bldg. and U.S. Courthouse, 515 Rusk Ave., Houston, Tex. 77002. Mail address: P.O. Box 61212.
	301 Broadway Bldg., Room 206, San Antonio, Tex. 78205.
Regional headquarters	J. Warren McFarland, Regional Manager, 13001 Federal Bldg., 450 Golden Gate Ave., San Francisco, Calif. 94102. Mail address: Post Office Box 36004.
Alaska	G-31 Federal Bldg., Anchorage, Alaska 99510. Mail address: Post Office Box 1532.
Arizona	3427 Federal Bldg., 230 North 1st Ave., Phoenix, Ariz. 85025.
California	7708 Federal Bldg., 300 North Los Angeles St., Los Angeles, Calif. 99012. 13001 Federal Bldg., 450 Golden Gate Ave., San Francisco, Calif. 94102. Mail address: Post Office Box 36004.
Colorado	2022 Federal Bldg., 1961 Stout St., Denver, Colo. 80202.
Idaho	550 West Fort St., Boise, Idaho 83702. Mail address: Box 07.
Montana	222 U.S. Post Office, Billings, Mont. 59101.
Nevada	203 Federal Bldg., 705 North Plaza St., Carson City, Nev. 89701.
New Mexico	1106 Federal Office Bldg., 517 Gold Ave., S.W., Albuquerque, N. Mex. 87101.
Oregon	450 Multnomah Bldg., 319 S.W. Pine St., Portland, Oreg. 97204.
Utah	5239 Federal Bldg., 125 South State St., Salt Lake City, Utah 84111.
Washington	6049 Federal Bldg., 090 First Ave., Seattle, Washington 98104.
Wyoming	1006 Federal Bldg. and Post Office, 100. East B Street, Casper, Wyo. 82601.

INTERSTATE COMMERCE COMMISSION



APPENDIX B—COMMISSION WORKLOAD

TABLE 1.—Distribution by method of disposition of proceedings cases closed during fiscal year 1973 compared to fiscal years 1971 and 1972 and average time in months from date of filing to closing.

	Dismissed or discontinued					
	Fiscal year 1971		Fiscal year 1972		Fiscal year 1973	
	Cases	Months	Cases	Months	Cases	Months
Orally heard rail merger cases	—	—	1	67.0	—	—
Rail finance cases (other than orally heard rail merger cases)	39	8.9	40	11.2	18	10.0
Motor carrier finance cases	22	9.2	23	9.4	27	10.1
Motor carrier operating authority cases	618	7.2	786	8.8	644	7.5
Motor carrier complaint cases	559	3.3	527	3.9	313	4.6
Water carrier cases	5	6.0	4	5.0	4	9.8
Formal docket cases (rate complaints and investigations)	55	5.7	46	5.4	73	13.1
Investigation and suspension cases (motor)	849	1.3	926	1.4	994	1.4
Investigation and suspension cases (rail)	53	2.7	67	3.3	105	3.8
All other cases	11	8.9	8	6.4	12	5.1
Total all types	2,211	3.9	2,428	4.7	2,190	4.4

	Decided by effective recommended report and order					
	Fiscal year 1971		Fiscal year 1972		Fiscal year 1973	
	Cases	Months	Cases	Months	Cases	Months
Orally heard rail merger cases	2	17.0	1	12.0	1	6.0
Rail finance cases (other than orally heard rail merger cases)	17	13.9	19	17.2	29	13.8
Motor carrier finance cases	25	13.9	31	16.6	26	14.2
Motor carrier operating authority cases	490	11.6	306	13.2	325	14.7
Motor carrier complaint cases	13	14.6	6	13.7	12	14.5
Water carrier cases	—	—	1	15.0	1	23.0
Formal docket cases (rate complaints and investigations)	25	10.3	19	8.8	43	13.4
Investigation and suspension cases (motor)	—	—	—	—	5	8.4
Investigation and suspension cases (rail)	1	5.0	—	—	3	11.3
All other cases	3	12.0	1	16.0	3	13.0
Total all types	576	11.8	384	13.5	448	14.4

	Decided by final report after service of initial report					
	Fiscal year 1971		Fiscal year 1972		Fiscal year 1973	
	Cases	Months	Cases	Months	Cases	Months
Orally heard rail merger cases	2	21.5	5	32.6	1	25.0
Rail finance cases (other than orally heard rail merger cases)	28	15.5	32	21.7	28	20.0
Motor carrier finance cases	43	20.9	60	25.9	69	25.6
Motor carrier operating authority cases	841	17.5	602	20.7	444	20.9
Motor carrier complaint cases	24	23.5	38	19.4	28	20.5
Water carrier cases	3	19.3	—	—	2	29.0
Formal docket cases (rate complaints and investigations)	51	20.9	68	18.6	98	23.1
Investigation and suspension cases (motor)	1	15.0	1	20.0	3	25.7
Investigation and suspension cases (rail)	3	29.3	1	13.0	3	17.0
All other cases	17	34.2	13	26.4	12	30.7
Total all types	1,013	18.3	820	21.0	688	21.9

	Decided by final report without a previous initial report						Total cases		
	Fiscal year 1971		Fiscal year 1972		Fiscal year 1973		Fiscal year 1971	Fiscal year 1972	Fiscal year 1973
	Cases	Months	Cases	Months	Cases	Months	1971	1972	1973
Orally heard rail merger cases	—	—	—	—	—	—	4	7	2
Rail finance cases (other than orally heard rail merger cases)	356	2.9	447	4.2	377	4.6	440	538	452
Motor carrier finance cases	221	6.4	218	7.3	248	8.4	311	332	370
Motor carrier operating authority cases	3,280	7.0	4,313	8.4	4,658	8.7	5,229	6,007	6,071
Motor carrier complaint cases	15	8.5	9	4.2	9	9.1	611	580	362
Water carrier cases	11	5.3	10	6.4	6	6.2	19	15	13
Formal docket cases (rate complaints and investigations)	5	8.8	31	19.6	6	6.8	136	164	220
Investigation and suspension cases (motor)	78	6.3	72	6.9	106	7.2	928	999	1,108
Investigation and suspension cases (rail)	37	9.0	39	7.3	33	10.3	94	107	144
All other cases	44	8.3	87	13.5	62	10.5	75	109	89
Total all types	4,047	6.7	5,226	8.1	5,505	8.4	7,847	8,858	8,831

TABLE 2.—Proceedings cases opened and closed during fiscal year 1973 as compared to prior fiscal years

	Fiscal year 1970	Fiscal year 1971	Fiscal year 1972	Fiscal year 1973
Pending beginning of year	4,962	5,332	6,217	6,497
Openings during year	8,334	8,732	9,138	8,587
Closings during year	7,964	7,847	8,858	8,831
Pending end of year	5,332	6,217	6,497	6,253

TABLE 3.—Certificates of convenience and necessity issued for abandonment, construction, acquisition and operation of lines of railroad under sec. 1(18) of the Interstate Commerce Act, as amended.

	July 1, 1971 through June 30, 1972		July 1, 1972 through June 30, 1973	
	Appli- cations	Miles	Appli- cations	Miles
I. Abandonment applications filed	273	3,978.4	266	4,436.3
Certificates of abandonment:				
Granted	268	3,457.7	198	2,428.3
Denied	3	47.9	5	153.5
Dismissed	10	263.0	9	113.5
Abandonments permitted since effective date of act	—	63,331.7	—	65,760.0
II. Construction applications filed	10	41.9	11	261.6
Granted	10	22.7	5	84.7
Denied	—	—	2	5.1
Dismissed	—	—	1	105.0
III. Acquisition and operation appli- cations filed	16	369.8	12	284.4
Granted	9	192.0	8	126.0
Denied	—	—	—	—
Dismissed	2	147.3	—	—

TABLE 4.—Informal proceedings

	1971	1972	1973
Applications for motor temporary au- thority:			
Filed	8,971	7,843	7,469
Disposed of	8,943	7,786	7,546
Pending at end of year	76	133	56
Petitions in applications for motor carrier temporary authority:			
Filed	989	1,021	894
Disposed of	968	1,027	868
Pending at end of year	86	80	106
Applications to deviate from regular routes:			
Filed	207	232	197
Disposed of	211	228	195
Pending at end of year	24	28	30
Petitions in deviation filings:			
Filed	7	3	4
Disposed of	9	1	6
Pending at end of year	0	2	0
Proceedings to revoke operating rights without hearing:			
Instituted	837	733	487
Disposed of	801	770	513
Pending at end of year	151	114	88
Ex Parte No. MC-85 applications			
Filed	—	—	50
Disposed of	—	—	50
Pending at end of year	—	—	0

TABLE 5.—Tariffs and schedules, fiscal year 1973

	Received	Criticized	Rejected
Freight:			
Common carrier, tariffs:			
Rail	50,723	756	308
Motor	221,599	8,877	2,734
Water	13,822	256	248
Pipeline	927	1	2
Freight forwarder	9,015	254	171
International Ocean-Land			
Intermodal	6,648	391	65
Total	302,734	10,535	3,528
Contract carrier, schedules:			
Motor	13,614	1,108	429
Water	4,574	155	95
Total	18,188	1,263	524
Total freight	320,922	11,798	4,052
Passenger, tariffs:			
Common carrier:			
Rail	516	39	4
Motor	7,553	744	120
Water	25	9	—
Total	8,094	792	124
Contract carrier: Motor	24	2	—
Express, tariffs:			
Rail	95	2	—
Motor	80	5	—
Total	175	7	—
Total passenger and express	8,293	801	124
Grand total	329,215	12,599	4,176

NOTES: Also filed were 15,543 quotations or tenders under section 22 of the act for Government transportation of property or persons at reduced rates.

Applications requesting permission to change rates or other tariff provisions on less-than-statutory notice, or to depart from the tariff publishing rules, numbered 5,661. A total of 4,039 copies of contracts and amendments to existing contracts between motor contract carriers and shippers were filed, while 19,025 contracts and amendments between freight forwarders and motor common carriers were filed pursuant to section 409 of the act.

TABLE 6.—Fourth section actions

	Number
Applications:	
On hand beginning of year	28
Received during year	248
Total	276
Disposed of during year:	
Granted	*232
Denied	8
Withdrawn	9
Dismissed	2
Total	251
Pending at end of year	25

Petitions of reconsideration of Board's action, 2; applications protested against granting of relief, 17; and relief withheld pending hearings in applications, 5.

*Includes applications that have been granted and denied in part.

TABLE 7.—Released rates board

	Number	Petitions for modifications of orders
Applications:		
On hand beginning of year	21	2
Received during year	74	2
Total	95	4
Disposed of during year:		
Granted	65	4
Denied	5	0
Granted and denied in part	8	0
Total	78	4
Pending at end of year	17	0

Petitions for reconsideration of Board's action, 2; applications protested against granting of relief, 1; relief withheld pending hearings in applications, 0.

TABLE 8.—Action taken on proposals considered for suspension

	Rail	Motor	Water	Freight for-warder	Express pipeline	Number	Percent
Suspended in full	400	1,361	23	67	14	1,865	38.5
Suspended in part	8	527	1	1	4	541	11.1
Not suspended (permitted to become effective)	306	1,115	44	79	14	1,558	32.1
Otherwise disposed of (schedules rejected, protest withdrawn, protested schedules canceled by carriers)	99	728	19	42	0	888	18.3
Total	813	3,731	87	189	32	4,852	100.0

TABLE 9.—Bureau of Operations—Field program: railroads, motor carriers, water carriers and freight forwarders

	Fiscal years	
	1972	1973
Motor-water-forwarder:		
Enforcement:		
Complaints of violations received	9,215	17,887
Complaints investigated and action taken	2,403	2,231
Investigations with court action expected	983	997
Other complaints received and handled (service, household goods, etc.)	20,886	18,005
Motor carrier general compliance surveys	1,377	1,300
Other enforcement matters	16,773	18,572
Operating authority:		
Permanent authority applications	5,841	5,300
Temporary operating authority*	8,398	7,967
Certificates of registration	54	56
Transfer proceedings section 212(b)	906	763
Transfer section 5	349	330
Temporary authority with acquisition	227	220
Rate bureau agreements	25	6
Revocations and dismissals	229	197
Other operating authority matters	36,209	36,815
Rates and tariffs:		
Assistance in tariff and rate publication	2,288	1,903
Tariff and rate interpretations	6,128	5,795
Insurance:		
Insurance compliance delinquencies	4,023	3,279
Other insurance matters (lapses, filings, requirements, etc.)	5,488	4,291
Accounts:		
Accounting report delinquencies	1,281	50
Other accounting matters	2,446	1,254
Railroads:		
Car service:		
Agencies and yards checked for general compliance	4,134	3,379
Seasonal commodity surveys and expediting checks	480	1,667
Enforcement:		
Special investigations on complaints and service	4,314	4,444
Enforcement investigations and compliance surveys	454	402
Cooperative agreements with States:		
Exchange of information	8,755	8,145
Evidence furnished	435	429
Witness in State proceedings	23	27
Joint investigations or conference	641	634

TABLE 10.—ICC Unit of the National Defense Executive Reserve: Status of membership and recruitment at close of fiscal year.

UNDER group	Fiscal year 1971			Fiscal year 1972			Fiscal year 1973		
	On rolls	Additional nominees	Total	On rolls	Additional nominees	Total	On rolls	Additional nominees	Total
Rail	683	246	929	693	200	893	752	4	756
Motor	196	29	225	203	10	213	202	1	203
Water	58	13	71	61	3	64	61	0	61
Other	17	0	17	17	0	17	17	0	17

TABLE 11.—Car supply—Cars installed, retired, and ordered

	Fiscal year			
	1958	1963	1968	1973
Cars installed:				
Box	20,291	10,076	22,188	14,128
Refrigerator	3,031	5,914	3,822	2,749
Gondola	15,090	594	9,833	4,384
Hopper	25,016	6,541	17,737	3,353
Covered hopper	6,713	4,319	7,999	7,685
Flat	892	2,454	2,992	1,221
Other	1,680	574	1,291	602
Total cars	72,713	30,472	65,862	34,122
Cars retired:				
Box	21,076	36,267	39,944	29,397
Refrigerator	5,952	3,085	5,785	3,407
Gondola	9,876	8,489	14,052	2,906
Hopper	17,540	29,251	27,539	19,222
Covered hopper	0	181	788	1,165
Flat	1,092	1,286	1,745	*—337
Other	3,481	5,233	4,077	6,222
Total cars	59,016	83,792	93,930	61,982
Cars ordered:				
Box	4,418	14,051	8,841	19,373
Refrigerator	996	7,574	4,360	4,085
Gondola	4,893	423	7,750	3,472
Hopper	2,491	5,139	12,139	5,782
Covered hopper	1,905	5,926	6,557	25,286
Flat	549	6,770	6,987	10,319
Other	2,128	7,044	8,555	10,652
Total cars	17,380	46,927	55,189	78,969

*Negative retirement indicates increase in ownership in excess of new installations, resulting from reclassification or transfer of equipment, purchase or lease of used equipment, etc.

TABLE 12.—Ownership, serviceable ownership, and turnaround time, Class I railroads

	Fiscal year			
	1958	1963	1968	1973
Ownership:				
Plain box	681,259	555,430	415,150	327,853
Equipped box	50,029	68,660	143,454	179,069
Total box	731,288	624,090	558,604	506,922
Refrigerators	96,511	90,495	101,384	91,939
Gondolas	282,730	245,057	200,454	183,236
Hoppers	524,904	437,102	415,500	363,256
Covered hoppers	56,870	71,267	122,210	145,629
Flat	49,983	54,820	67,580	96,916
Others	81,433	66,223	57,148	39,300
Total cars	1,823,719	1,589,054	1,522,880	1,427,198
Serviceable cars:				
Plain box	638,382	509,443	384,120	300,575
Equipped box	46,581	65,145	137,397	168,580
Total box	684,963	574,588	521,517	469,155
Refrigerators	89,877	86,262	98,269	87,512
Gondolas	252,545	215,360	189,362	171,391
Hoppers	478,386	408,002	397,806	345,427
Covered hoppers	55,697	69,742	118,593	140,043
Flat	47,653	52,457	64,453	92,391
Others	77,813	63,384	54,270	37,723
Total cars	1,686,934	1,469,795	1,444,270	1,343,642
	Calendar year			
	1957	1962	1967	1972
Turnaround time-days:				
Box	17.64	19.41	22.13	23.21
Refrigerators	29.92	30.81	35.26	32.21
Gondolas	17.18	22.24	19.61	19.41
Hoppers	14.62	16.41	14.53	14.71
Covered hoppers	18.47	21.46	21.68	20.73
Flat	21.27	13.64	12.98	12.57
Average all cars	17.43	19.24	19.02	19.57

TABLE 13.—Service orders—fiscal year 1973

Service order numbers	Date effective	Purpose	Date of expiration	Date vacated
Service Order No. 957*	12-17-64	Missouri-Kansas-Texas Railroad Company rerouting of traffic substitute switching service at Mangum and Frederick, Oklahoma.	Open	
Amended:				
994*	12-31-72	Rerouting of traffic-appointment of agents.	12-31-73	
995*	12-31-72	Appointment of embargo agents.	12-31-73	
1002*	12-31-72	Car distribution directions-Appointment of agents.	12-31-73	
1043*	8-1-72	Regulations for return of hopper cars.	12-31-72	
1043	12-31-72	.....do.	6-30-73	
1043	6-30-73	.....do.	12-31-73	
1055*	6-30-72	Burlington Northern, Inc., and Chicago, Milwaukee, St. Paul and Pacific Railroad Company authorized to operate over trackage abandoned by Sioux City Terminal Railway Company.	12-31-72	
1074*	4-30-72	Union Pacific Railroad Company authorized to operate over certain trackage of Burlington Northern, Inc.	8-31-72	
1076*	3-31-72	Chicago, Rock Island and Pacific Railroad Company authorized to operate over certain trackage of Union Pacific Railroad Company.	9-30-72	
1081*	6-30-72	Union Pacific Railroad Company authorized to operate over tracks of the Southern Pacific Transportation Company.	12-31-72	
1083*	6-30-72	Southern Pacific Transportation Company authorized to operate over tracks of the Texas and Pacific Railway Company.	12-31-72	
1083	12-31-72	.....do.	7-31-73	
1084*	6-30-72	Chicago, Rock Island and Pacific Railroad Company authorized to operate over tracks of Chicago and North Western Railway Company.	12-31-72	
1084	12-31-72	.....do.	7-31-73	
1086*	6-30-72	Chicago, Rock Island and Pacific Railroad Company authorized to operate over tracks of Peoria and Pekin Union Railway Company.	12-31-72	
1086	12-31-72	.....do.	2-28-73	
1086	2-28-73	.....do.	8-31-73	
1087*	6-30-72	Burlington Northern Inc., authorized to operate over tracks of the Peoria and Pekin Union Railway Company.	12-31-72	
1087	12-31-72	.....do.	2-28-73	
1087	2-28-73	.....do.	8-31-73	
1089*	5-3-72	New York Dock Railway authorized to operate over trackage abandoned by Bush Terminal Railroad Company.	8-1-72	

Amended:

1089 8- 1-72do. 10-31-72
 1089 10-31-72do. 12-31-72
 1089 12-31-72do. 3-31-73
 1089 3-31-73do. 4-30-73
 1089 4-30-73do. 5-31-73
 1089 5-31-73do. 7-31-73
 1091* 6-30-72 Norfolk and Western Railway Company authorized to operate over tracks of Penn Central Transportation Company. 12-31-72

1091 12-31-72do. 5-31-73
 1091 5-31-73do. 11-30-73
 1092* 5-31-72 Missouri Pacific Railroad Company authorized to operate over tracks of Illinois Central Railroad Company. 12-31-72

1092 12-31-72do. 6-30-73
 1093* 6-30-72 Burlington Northern Inc., authorized to operate over tracks of Minneapolis Industrial Railway Company. 9-30-72
 1093 9-30-72do. 1-31-73
 1093 1-31-73do. 2-28-73
 1094* 7- 3-72 Lehigh Valley Railroad Company authorized to operate over tracks of Lehigh Coal and Navigation Company (formerly operated by the Central Railroad Company of New Jersey). 8- 1-72

1094 8- 1-72do. 8-31-72
 1094 8-31-72do. 9-11-72
 Service Order No. 1096 4-13-72 Southern Railway Company authorized to operate over tracks of St. Louis-San Francisco Railway Company and over tracks of Missouri Pacific Railroad Company; Missouri Pacific Railroad Company authorized to operate over tracks of Southern Railway Company. 9-30-72

Amended:

1096 9-30-72do. 3-31-73
 Service Order No. 1097 5- 2-72 Illinois Terminal Railroad Company authorized to operate over trackage of Chicago and North Western Railway Company. 10-31-72
 Service Order No. 1098 5-11-72 Chicago and North Western Railway Company authorized to operate over tracks abandoned by the Chicago, Rock Island Pacific Railroad Company. 10-31-72

Amended:

1098 10-31-72do. 4-30-73
 1098 4-30-73do. 7-31-73
 Service Order No. 1099 6- 1-72 Delray Connecting Railroad Company authorized to operate over tracks abandoned by the Detroit, Toledo and Ironton Railroad Company. 12-31-72

See footnote at end of table.

TABLE 13.—Service orders—fiscal year 1973—Continued

Service order numbers	Date effective	Purpose	Date of expiration	Date vacated
Amended: 1099	12-31-72	....do.	7-31-73	
Service Order No. 1100	6- 9-72	Union Pacific Railroad Company authorized to operate over tracks of Agricultural Products Corporation between Epco, Caribou County, Idaho, and Dry Valley, Caribou County, Idaho.	12-31-72	
Amended: 1100 1100	12-31-72 5-31-73	....do. ....do.	5-31-73 8-31-73	
Service Order No. 1101	7- 3-72	Erie Lackawanna Railway Company authorized to operate over tracks of Lehigh Valley Railroad Company.	9- 3-72	
Service Order No. 1102	7-10-72	Delaware and Hudson Railway Company and Penn Central Transportation Company authorized to assume joint supervisory control over railroad operations of Albany Port District Commission, Albany, New York.	12-31-72	
Amended: 1102 1102	12-31-72 6-30-73	....do. ....do.	6-30-73 11-30-73	
Service Order No. 1103	7-31-72	Texas and Pacific Railway Company authorized to operate over tracks of St. Louis-San Francisco Railway Company.	10-31-72	
Service Order No. 1104	7-25-72	Penn Central Transportation Company authorized to operate over tracks of the Erie Lackawanna Railway Company.	10-21-72	
Amended: 1104 1104 1104 1104	10-21-72 1-31-73 3-31-73 5-31-73	....do. ....do. ....do. ....do.	1-31-73 3-31-73 5-31-73 6-30-73	
Service Order No. 1105	8- 1-72	Distribution of boxcars (MEC).	10-31-72	
Revised: 1105 1105	10- 7-72 10-17-72	....do. ....do.	11-30-72 11-30-72	
Amended: 1105 1105	11-30-72 1-31-73	....do. ....do.	1-31-73 4-30-73	
Revised 1105	4-30-73	....do.	6-30-73	

Service Order No. 1106	8- 1-72	Baltimore and Ohio Railroad Company authorized to operate over tracks of the Penn Central Transportation Company.	10-31-72
Amended:			
1106	10-31-72	....do.	1-31-73
1106	1-31-73	....do.	5-31-73
1106	5-31-73	....do.	11-30-73
Service Order No. 1107	8-10-72	Lehigh Valley Railroad Company authorized to operate over tracks of the Penn Central Transportation Company.	11-30-72
Amended:			
1107	11-30-72	....do.	2-28-73
1107	2-28-73	....do.	6-30-73
Service Order No. 1108	8-12-72	Reading Company authorized to operate over tracks of Lehigh Valley Railroad Company.	12-31-72
Revised 1108	12-31-72	....do.	2-28-73
Amended 1108	2-28-73	....do.	8-31-73
Service Order No.: 1109			
1110	8-31-72	Burlington Northern Inc., authorized to operate over trackage in Campbell County, Wyoming.	12-31-72
	9- 1-72	Penn Central Transportation Company required to restore service at Buttonwood (Wilkes-Barre), Pennsylvania Gateway and to reroute traffic originally routed via that gateway.	9-12-72
Amended 1110	9- 1-72	....do.	9-21-72
Revised 1110	9-15-72	....do.(Par. 1033.1110(b)).	10-21-72
Amended:			
1100	9-15-72	....do.	11-25-72
1100	9-15-72	....do.	12-29-72
1110	9-15-72	....do.	1-31-73
1110	9-15-72	....do.	2-28-73
1110	9-15-72	....do.	3-31-73
1110	9-15-72	....do.	4-30-73
1110	9-15-72	....do.	5-31-73
1110	9-15-72	....do.	6-30-73
Service Order No. 1111	9-15-72	Delaware and Hudson Railway Company authorized to operate over tracks of Erie Lackawanna Railway Company.	10-21-72
Amended:			
1111	10-21-72	....do.	11-25-72
1111	11-25-72	....do.	12-29-72
1111	12-29-72	....do.	1-31-73
1111	1-31-73	....do.	2-28-73

See footnote at end of table.

TABLE 13.—Service orders—fiscal year 1973

Service order numbers	Date effective	Purpose	Date of expiration	Date vacated
1111	2-28-73	....do.	3-31-73	
1111	3-31-73	....do.	4-30-73	
1111	4-30-73	....do.	5-31-73	
1111	5-31-73	....do.	6-30-73	
Service Order No. 1112	10- 9-72	Railroad operating regulations for freight car movement.	3-31-73	
Amended:				
1112	11- 6-72	....do.	3-31-72	
1112	11-10-72	....do.	3-31-72	
1112	3-31-73	....do.	10-31-73	
Service Order No. 1113	10-19-72	Penn Central Transportation Company authorized to operate over tracks of the Norfolk and Western Railway Company.	2-28-73	
Amended 1113	2-28-73	....do.	6-30-73	
Service Order No. 1114	10-19-72	Norfolk and Western Railway Company authorized to operate over tracks of Penn Central Transportation Company.	2-28-73	
Amended 1114	2-28-73	....do.	6-30-73	
Service Order No.: 1115	10-19-72	Chicago, Milwaukee, St. Paul and Pacific Railroad Company authorized to operate over tracks of Chicago, Rock Island and Pacific Railroad Company.	11-30-72	
1115-A	11- 6-72	....do.		11-6-72
Service Order No. 1116	1-10-73	Lehigh Valley Railroad Company authorized to operate over tracks of West Pittston-Exeter Railroad Co.	6-30-73	
Amended 1116	6-30-73	....do.	11-30-73	
Service Order No. 1117	1-15-73	Substitution of hopper cars for covered hopper cars.	3-31-73	
Revised:				
1117	1-18-73	....do.	3-21-73	
1117	3-16-73	....do.	7-31-73	
Service Order No. 1118	2- 2-73	Providence and Worcester Company authorized to operate over tracks of Penn Central Transportation Company.	8-31-73	
Service Order No. 1119	2- 5-73	Demurrage on freight cars.	6-30-73	
Service Order No. 1120	2- 5-73	Distribution of Covered Hopper Cars.	7-31-73	
Amended 1120	2- 8-73	....do.	7-31-73	

Service Order No. 1121	2- 5-73	Demurrage and Free Time at Ports.	7-31-73
Corrected 1121	2- 5-73	....do.	7-31-73
Revised:			
1121	3-16-73	....do.	7-31-73
1121	4- 1-73	....do.	8- 1-73
Corrected Revised 1121	4- 1-73	....do.	8- 1-73
Service Order No.:			
1122	2-15-73	Texas Export Railroad Company authorized to operate over tracks abandoned by Chicago, Rock Island and Pacific Railroad Company.	8-31-73
1123	2-19-73	Northwestern Oklahoma Railroad Company authorized to operate over certain trackage abandoned by Missouri-Kansas-Texas Railroad Company.	8-31-73
1124	3-16-73	Demurrage and free time on freight cars.	7-31-73
Revised 1124	4- 1-73	....do.	8- 1-73
Corrected Revised 1124	4- 1-73	....do.	8- 1-73
Service Order No.:			
1125	3-12-73	St. Louis-San Francisco Railway Company authorized to operate over tracks of the Kansas City Southern Railway Company.	7-31-73
1126	3- 9-73	Baltimore and Ohio Railroad Company authorized to operate over tracks of Penn Central Transportation Company.	8-31-73
1127	3-15-73	Central California Traction Company authorized to operate over tracks of Southern Pacific Transportation Company.	4-30-73
Amended 1127	4-30-73	....do.	6-15-73
Service Order No.:			
1128	3-25-73	Louisville and Nashville Railroad Company authorized to operate over tracks of Norfolk and Western Railway Company.	9-30-73
1129	3-25-73	Chicago, Rock Island and Pacific Railroad Company authorized to operate over tracks of Burlington Northern Inc.	4-15-73
Amended 1129	4-15-73	....do.	6-30-73
Service Order No.:			
1130	3-29-73	Illinois Central Gulf Railroad Company authorized to operate over tracks of Penn Central Transportation Company.	4-30-73
1131	4- 9-73	Chicago, Rock Island and Pacific Railroad Company authorized to operate over tracks of Chicago, Milwaukee, St. Paul and Pacific Railroad Company.	6-30-73
1132	4-20-73	Distribution of Freight Cars.	7-31-73
1133	5-10-73	Central Iowa Railway and Development Company authorized to operate over tracks abandoned by Chicago, Rock Island and Pacific Railroad Company and to operate over tracks of Chicago, Rock Island and Pacific Railroad Company.	10-31-73

See footnote at end of table.

TABLE 13.—Service orders—fiscal year 1973

Service order numbers	Date effective	Purpose	Date of expiration	Date vacated
1134	5-15-73	Lumber and Plywood-Restrictions on Reconsigning.	7-31-73	
1135	5-10-73	Illinois Central Gulf Railroad Company authorized to operate over tracks of the Penn Central Transportation Company.	6-30-73	
1136	5- 9-73	Chicago and North Western Transportation Company authorized to operate over tracks of Soo Line Railroad Company.	6-15-73	
Amended 1136	6-15-73	.....do.	11-30-73	
Service Order No.: 1137	5-20-73	Chicago, Rock Island and Pacific Railroad Company authorized to operate over tracks of the Texas and Pacific Railway Company.	8-15-73	
1138	5-25-73	Colorado and Southern Railway Company authorized to operate over tracks of the Colorado & Wyoming Railway Company.	11-30-73	
Revised 1138	6- 1-73	Colorado & Wyoming Railway Company authorized to operate over jointly owned tracks of the Atchison, Topeka and Santa Fe Railway Company and the Colorado and Southern Railway Company.	11-30-73	
Service Order No.: 1139	6- 1-73	Atchison, Topeka and Santa Fe Railway Company authorized to operate over tracks of Union Pacific Railroad Company.	9-30-73	
1140	6- 8-73	Chicago and North Western Transportation Company authorized to operate over tracks of Union Pacific Railroad Company.	9-30-78	
1141	6-12-73	Texas and Pacific Railroad Company shall unload certain cars of boilers at El Paso, Texas.	6-25-73	

•Order was in effect July 1, 1972.

TABLE 14.—Enforcement activities, July 1, 1972 thru June 30, 1973

	Rail	Motor	Other	Total
Field investigations:				
On hand beginning of year	³ 216	192	³ 11	³ 419
Received during year	96	822	2	920
Concluded during year	167	818	7	992
Pending at end of year	145	196	6	347
Court proceedings:				
On hand beginning of year	³ 42	388	3	³ 433
Commenced during year	48	597	5	650
Concluded during year	¹ 45	² 585	4	634
Pending at end of year	45	400	4	449
Civil claims settlements:				
On hand beginning of year	³ 18	286	N/A	³ 304
Commenced during year	28	514	N/A	542
Concluded during year	27	438	N/A	465
Pending at end of year	19	362	N/A	381
Commission proceedings:				
On hand beginning of year	17	174	10	³ 201
Commenced during year	6	98	2	106
Concluded during year	5	92	6	103
Pending at end of year	18	180	6	204

¹ Includes 28 Civil Claims cases.

² Includes 364 Civil Claims cases resulting in 438 separate settlements.

³ Adjusted figures.

TABLE 15.—Cases concluded or settled and monetary sanctions imposed

	Rail	Motor water and forwarder	Total
Cases concluded in court	13	*172	185
Amount imposed	\$104,375	\$124,271	\$228,646
Civil Claims settlements	21	438	459
Amount imposed	\$434,275	\$740,950	\$1,175,225
Total fines and forfeitures	34	610	644
Total amount imposed	\$538,650	\$865,221	\$1,403,871

*Includes 57 Permanent Injunction cases and 115 cases for monetary sanctions.

APPENDIX C—PUBLICATIONS

Financial and Traffic Statistics¹

ANNUAL

- * Transport Statistics in the United States. Detailed data on traffic, operations, equipment, finances, and employment for carriers subject to the Interstate Commerce Act (rail carriers, motor carriers, water carriers, pipelines, freight forwarders, REA Express, Inc., and private car owners). Available by releases: Rail, first release, second release; motor, first release, second release, and third release; water carriers, pipelines, freight forwarders, and private car lines. (REA Express, Inc., and electric railways included with first release rail.)
- * Freight Commodity Statistics, Class I Railroads in the United States. Carloads and tons of revenue freight originated, terminated, and received from connecting carriers, and gross freight revenue.
- * Motor Carrier Freight Commodity Statistics, Class I Common and Contract Carriers of Property. Number of truckloads and tons of freight originated, terminated, and delivered to connecting carriers, and gross freight revenue.

Selected Statistics of Class III Motor Carriers of Property.

A-300 Wage Statistics of Class I Railroads in the United States—Calendar Year. Number of employees, service hours and compensation by occupation: Professional, clerical, and general; maintenance of way and structures; maintenance of equipment and stores; etc.

QUARTERLY

Quarterly Freight Loss and Damage Claims. Statistical facts relative to losses sustained by the motor carrier industry from theft of goods in transit.

* Indicates publications which may be purchased from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. Other publications obtained from the Section of Administrative Services, Interstate Commerce Commission, Washington, D.C. 20423 without charge.

¹ Prepared by the Bureau of Accounts.

Large Class I Motor Carriers of Property Selected Earnings Data. Operating revenues, net income, revenue tons hauled, operating ratio and rate of return.

Class I Line-Haul Railroads Selected Earnings Data. Railway operating revenues, net railway operating income, ordinary income, net income and rate of return.

SEMIANNUAL

(First Issue: Cumulative data for period, January-June; Second issue: Cumulative data for period, January-December)²

Publications

- 100—Financial and Operating Statistics of Class I Railroads in the United States. Operating revenues and expenses; selected income and balance sheet items; selected traffic, service and equipment statistics.
- 300—Wage Statistics of Class I Railroads in the United States. Number of employees, service hours, and compensation by occupation.
- 600—Transportation Revenue and Traffic of Large Pipeline Companies. Transportation revenue and number of barrels of oil originated and received from connections, present and preceding year.
- 650—Revenue and Traffic of Class A and B Water Carriers. Freight revenue, number of tons of revenue freight carried, revenue ton-miles, passenger revenue, and number of passengers carried.
- 750—Revenues, Expenses, Other Income, and Statistics of Class I Motor Carriers of Passengers. Passenger operating revenues (intercity, local and suburban, charter or special service), expenses, other income, miles of highway over which intercity regular route operations conducted, vehicle-miles operated by buses in intercity, local and suburban, charter or special service, number of revenue passengers carried by buses for each route operation, man-hours paid for, and compensation of drivers.
- 800—Revenues, Expenses, Other Income, and Statistics of Class I Motor Carriers of Property. Operating revenue (intercity, common and contract, local cartage, intercity transportation for other class I and class II motor carriers), expenses, other income, deductions and income taxes, truck- and tractor-miles operated in intercity freight service by common and contract carriers, tons of revenue freight transported in intercity service, operating ratio, report of manhours paid for, and compensation of drivers and helpers.
- 950—Revenues, Expenses, and Statistics of Freight Forwarders.

² Except No. 300: the first issue is for the month of June, and the second issue is for the month of December.

Operating revenues, expenses, income items, net income, tons of freight received from shippers, and number of shipments received from shippers.

Monthly

M-350—Report of Railroad Employment, Class I Line-Haul Railroads. Number of employees at middle of month, group totals.

Transport Economics³

Transport Economics. Recurring and special analyses of traffic, operations, equipment, finances, and employment of transportation industries, and related subjects. Issued monthly.

³ Prepared by Bureau of Economics. Upon request to the Bureau, copies may be obtained free of charge until supply is exhausted.

APPENDIX D—APPROPRIATIONS AND EMPLOYMENT

The following statement shows average employment and total appropriations for the fiscal years 1947 to 1974 for activities included under the current appropriation title "Salaries and Expenses."

Year	Appropriation	Average employment	Year	Appropriation	Average employment
1947	10,496,200	2,240.4	1961	21,451,500	2,386.1
1948	10,713,000	2,247.7	1962	22,075,000	2,399.7
1949	11,300,317	2,217.8	1963	23,502,800	2,412.8
1950	11,416,700	2,161.0	1964	24,670,000	2,407.8
1951	11,408,200	2,072.3	1965	26,715,000	2,399.1
1952	11,264,035	1,889.5	1966	27,540,000	2,375.8
1953	11,003,500	1,849.4	1967	¹ 27,169,000	² 1,928.9
1954	11,284,000	1,837.9	1968	23,846,000	1,899.0
1955	11,679,655	1,859.1	1969	24,664,000	1,808.1
1956	12,896,000	1,902.2	1970	27,742,660	1,801.9
1957	14,879,696	2,090.1	1971	28,442,000	1,730.7
1958	17,412,375	2,237.8	1972	30,640,000	1,676.2
1959	18,747,800	2,268.1	1973	33,720,000	1,765.4
1960	19,650,000	2,343.6	1974	34,750,000	³ 1,871.0

¹ Excludes \$1,310,000 transferred to the Department of Transportation (Public Law 89-670) approved October 15, 1966, and determination order of the Director of the Office of Management and Budget which authorized transfer of funds as of April 1, 1967.

² Excludes average employment for those functions transferred to the Department of Transportation effective April 1, 1967.

³ Estimated.

Statement of Appropriations and Obligations for the Fiscal Year Ended June 30, 1973

Salaries and Expenses

An Act (Public Law 92-398, approved August 22, 1972) making appropriations for the Department of Transportation and related agencies for the fiscal year ending June 30, 1973, and for other purposes included the following:

Salaries and expenses: For necessary expenses of the Interstate Commerce Commission, including services as authorized by 5 U.S.C. 3109, \$33,120,000, of which \$150,000 shall be available for valuation of pipelines: Provided, that Joint Board members and cooperating State commissioners may use Government transportation requests when traveling in connection with their duties as such.

An Act (Public Law 93-50, approved July 1, 1973) making supplemental appropriations for the fiscal year ending June 30, 1973, and for other purposes.

Salaries and expenses: \$600,000 Interstate Commerce Commission.
 Status of fiscal year 1973 salaries and expenses account as of June 30, 1973:

Total appropriation	\$33,720,000
Total obligations	\$33,710,484
<hr/>	
Unobligated balance	\$9,516

Payment of Loan Guarantees

An Act (Public Law 92-607 approved October 31, 1972) making supplemental appropriations for the fiscal year ending June 30, 1973, and for other purposes included the following:

Payment of loan guarantees: For payments required to be made as a consequence of loan guarantees made by the Interstate Commerce Commission under section 503 of the Interstate Commerce Act, as amended (49 U.S.C. 1233), \$12,000,000, together with such amounts as may be necessary to pay interest thereon.

Status of fiscal year 1973 loan guarantee account as of June 30, 1973:

Appropriation:

Principal	\$12,000,000
Interest	323,000

Total	12,323,000
Total obligation	12,323,000

Unobligated balance	0
---------------------------	---

Payments were made to cover outstanding amounts defaulted by the Erie-Lackawanna Railway Company.

Fees and Charges

Status of receipt accounts as of June 30, 1973:

Registration and filing fees	\$3,223,026
Charges for administrative services	19,294

Total receipts from fees and charges	\$3,242,320
--	-------------

APPENDIX E—CARRIER FINANCIAL AND STATISTICAL DATA

TABLE 1.—Carriers reporting to the commission

	Number
Carriers subject to Uniform Systems of Accounts and required to file annual and periodic reports as of June 30, 1973.	
Carriers:	
Railroads, class I ¹	66
Railroads, class II ²	256
Railroad switching and terminal companies, class I	29
Railroad switching and terminal companies, class II	139
Railroad lessor companies ³	124
Motor carriers, class I passenger ⁴	110
Motor carriers, class I property ⁵	1,738
Motor carriers, class II property ⁶	2,026
Oil pipelines	101
Water carriers	81
Maritime carriers	17
Electric railways	8
Freight forwarders	109
Protective service companies	6
Express companies	1
Stockyard companies ⁷	26
Holding companies (rail)	5
Holding companies (water)	1
Total	4,843
Carriers and organizations filing annual reports but not subject to prescribed Uniform Systems of Accounts as of June 30, 1973.	
Carriers and organizations:	
Car lines (companies which furnish cars for use on lines of railroads)	138
Classes II and III motor carriers of passengers	957
Class III motor carriers of property	11,380
Water carriers (less than \$100,000 gross revenue)	108
Freight forwarders (less than \$100,000 gross revenue)	25
Holding companies (motor)	77
Street electric lines	1
Rate bureaus and organizations	106
Total	12,792
Grand total	17,635

¹ Railroad companies having annual operating revenues in excess of \$5,000,000.

² Railroad companies having annual operating revenues less than \$5,000,000.

³ Includes 108 lessors to class I railroads and 16 lessors to class II railroads.

⁴ Motor carriers having annual operating revenues in excess of \$1,000,000. Includes 7 combination (property and passenger) carriers.

⁵ Motor carriers having annual operating revenues in excess of \$1,000,000.

⁶ Motor carriers having annual operating revenues less than \$1,000,000 but in excess of \$300,000.

⁷ Includes 11 stockyard company lessors.

TABLE 2.—Recapitulation of preliminary 1972 operating revenues, net investment, and taxes for carriers shown

(Dollars in thousands)

Kind of carrier	Number of carriers represented ¹	Operating revenues	Net investment ²	Taxes	
				Income taxes on ordinary income ³	All other taxes
Railroads—class I line haul	70	\$13,175,626	\$25,938,939	\$109,632	\$1,010,930
Motor carriers of property—class I intercity	1,571	15,169,264	3,303,579	305,556	830,289
Motor carriers of passengers—class I intercity	75	774,803	412,763	34,053	53,845
Water carriers by inland and coastal waterways—class A and class B	77	432,712	383,932	14,651	5,836
Pipelines	99	1,337,861	4,341,695	127,284	91,934
REA Express, Inc.	1	240,189	1,760	1,619	18,473
Total	1,893	31,130,455	34,382,668	592,795	2,011,307
Percentage distribution					
Railroads—class I line haul	3.7	42.3	75.5	18.5	50.3
Motor carriers of property—class I intercity	83.0	48.7	9.6	51.5	41.3
Motor carriers of passengers—class I intercity	4.0	2.5	1.2	5.7	2.7
Water carriers by inland and coastal waterways—class A and class B	4.1	1.4	1.1	2.5	.2
Pipelines	5.2	4.3	12.6	21.5	4.6
REA Express, Inc.	.0	.8	.0	.3	.9
Total	100.0	100.0	100.0	100.0	100.0

¹ Carriers for which preliminary financial and statistical data were available.

² Net investment in carrier transportation or operating property and equipment plus working capital as of December 31, 1972.

³ Railroads, pipelines, and REA Express, Inc., federal income taxes only, all other carriers include federal and state income taxes.

⁴ Class A water carriers have annual operating revenues in excess of \$500,000; class B carriers have annual operating revenues less than \$500,000 but more than \$100,000.

TABLE 3.—Intercity ton miles, public and private, by mode of transportation, 1972* and 1971

Mode of transportation	1972 (millions)	1971 (millions)	Percent change	Percent of grand total	
				1972	1971
1. Railroads and electric rail-ways, excluding express and mail	784,300	745,983	5.1	37.77	38.19
2. Motor vehicles	470,000	445,000	5.6	22.63	22.78
3. Inland waterways including Great Lakes	338,700	315,030	7.5	16.31	16.13
4. Pipelines (oil)	480,000	444,000	8.1	23.11	22.73
5. Airways (domestic revenue service) including express mail	3,700	3,454	7.1	0.18	0.17
Grand total	2,076,700	1,953,467	6.3	100.00	100.00

*Data for 1972 are preliminary.

Sources (numbers below same as items in table):

1. Reports to the Interstate Commerce Commission (ICC).
2. Based on data obtained from the Federal Highway Administration, Department of Transportation.
3. Reported by the Corps of Engineers, Department of the Army. Only ton miles in domestic waters are included.
4. Estimated by using reports to the ICC.
5. Based on statistics obtained from the Civil Aeronautics Board.

**TABLE 4.—Federally regulated and total intercity ton miles, 1971,
by mode of transportation**

Mode of transportation	Federally regulated		Not Federally regulated		Total	
	Ton miles (billions)	Percent	Ton miles (billions)	Percent	Ton miles (billions)	Percent
Rail	746.0	100.0	0.0	0.0	746.0	100.0
Motor	185.0	41.6	260.0	58.4	445.0	100.0
Water ¹	39.1	6.6	554.1	93.4	593.2	100.0
Pipelines (oil)	371.8	83.7	72.2	16.3	444.0	100.0
Air ²	3.5	100.0	0.0	0.0	3.5	100.0
Total	1,345.4	60.3	886.3	39.7	2,231.7	100.0

¹ Federally regulated ton miles include only regulated traffic carried by regulated water carriers. All exempt traffic is excluded. The separation was made from data supplied by the Corps of Engineers, Department of the Army. The total water carrier data include deep sea, coastwise and intercoastal service.

² Air ton mile data are supplied by the Civil Aeronautics Board.

**TABLE 5.—Class I line-haul railroads and their lessor subsidiaries share-
holders' equity, long-term debt, and dividends**

[Dollars in thousands]

Item	1970	1971	1972 ¹
1. Shareholders' equity:			
a. Capital stock	\$6,136,127	\$6,196,647	\$5,722,791
b. Capital surplus	2,636,467	3,030,398	3,220,805
c. Retained income	10,252,214	9,195,691	8,312,133
d. Total equity	19,024,808	18,422,736	17,255,729
2. Long-term debt	11,055,589	11,184,761	10,765,802
3. Total equity and debt	30,080,397	29,607,497	28,021,531
4. Ratio of debt to equity (percent)	36.75	37.78	38.42
5. Amount of dividends: ²			
a. Cash	417,081	789,778	464,750
b. Stock	522	2,435	2,556

¹ Preliminary.

² Includes figures for lessors and operating railroads without excluding duplications on account of intercorporate payments.

TABLE 6.—Class I line-haul railroads condensed income statement, financial ratios, and employee data

[Dollars in thousands]

Item	1970	1971	1972 ¹
1. Number of carriers represented	73	71	70
CONDENSED INCOME STATEMENT			
2. Operating revenues:			
a. Freight	\$10,921,813	\$11,786,431	\$12 187,132
b. Passenger	420,452	380,323	395,450
c. Total operating revenues	11,991,658	12,790,311	13,175,626
3. Total operating expenses	9,659,982	10,234,784	10,530,108
4. Railway tax accruals ²	1,068,518	1,100,204	1,120,561
5. Rent income and rents payable—Net	—777,304	—852,172	—866,976
6. Net railway operating income	485,854	603,152	657,981
7. Ordinary income	226,583	294,542	319,146
8. Extraordinary and prior period items—Net ³	—150,404	—686,131	—100,989
9. Net income	76,179	—391,589	218,157
NET INVESTMENT AND EQUITY			
10. Net investment in transportation property and equipment plus working capital	27,814,560	27,818,041	25,938,939
11. Shareholders' equity	17,323,342	16,715,752	15,534,537
FINANCIAL RATIOS (PERCENT)			
12. Operating ratio (L. 3 ÷ L. 2)	80.56	80.02	79.92
13. Return on net investment: (L. 6 ÷ L. 10)	1.75	2.17	2.54
14. Return on equity			
a. Ordinary income basis (L. 7 ÷ L. 11)	1.31	1.76	2.05
b. Net income basis (L. 9 ÷ L. 11)	.44	—	1.40
EMPLOYEE DATA			
15. Average number	566,282	544,497	527,235
16. Compensation:			
a. Total	\$5,556,734	\$5,895,123	\$6,434,658
b. Per hour paid for	4.030	4.519	5.034

¹ Preliminary.

² Includes payroll taxes and all other taxes, except federal income taxes on extraordinary and prior period items. Federal income taxes on ordinary income included for 1970, 1971, and 1972 are \$88,349; \$107,681; and \$109,632 (thousands).

³ Includes federal income taxes on extraordinary and prior period items.

TABLE 7.—Class I line-haul railroads current assets and current liabilities as of December 31, 1971 and 1972

(Dollars in thousands)

	1971 amount ¹	1972 amount ²	Percent of change
Total current assets	\$3,657,307	\$3,565,493	-2.5
Cash and temporary cash investments	1,220,016	1,008,998	-17.3
Materials and supplies	556,270	524,223	-5.8
Total current liabilities	3,024,545	2,959,758	-2.1
Net working capital:			
Including materials and supplies	632,762	605,735	-4.3
Excluding materials and supplies	76,492	81,512	+6.6
Ratios:			
Current assets to current liabilities:			
Including materials and supplies	1.21	1.20	
Excluding materials and supplies	1.03	1.03	
Cash and temporary cash investments to current liabilities	.40	.34	

¹ Revised.

² Preliminary.

TABLE 8.—Refrigerator car lines owned or controlled by railroads condensed income statement, financial ratios, and employee data

(Dollars in thousands)

Item	1970	1971	1972 ¹
1. Number of companies represented	7	7	6
CONDENSED INCOME STATEMENT			
2. Operating revenues	\$196,957	\$192,177	\$196,762
3. Operating expenses	127,722	128,870	129,666
4. Income taxes	4,325	743	1,459
5. Car line operating income	22,757	17,150	18,466
6. Ordinary income	11,411	4,053	4,956
7. Extraordinary and prior period items—net ²	-150	-1,717	-155
8. Net income	11,261	2,336	4,801
NET INVESTMENT AND EQUITY			
9. Net investment in cars and protective service property plus working capital	434,013	438,962	422,317
10. Shareholders' equity	258,579	258,377	257,871
FINANCIAL RATIOS (PERCENT)			
11. Operating ratio (L. 3 ÷ L. 2)	64.85	67.06	65.90
12. Return on net investment (L. 5 ÷ L. 9)	5.24	3.91	4.37
13. Return on equity (L. 8 ÷ L. 10)	4.35	.90	1.86
EMPLOYEE DATA			
14. Average number	5,218	5,049	4,855
15. Compensation	\$50,140	\$49,158	\$54,193

¹ Preliminary.

² Includes federal income taxes on extraordinary and prior period items.

TABLE 9.—Nonrailroad controlled private car-owners,¹ revenues and selected statistics

(Dollars and miles in thousands)

Item	1970	1971	1972 ²
1. Revenue	\$593,591	\$588,006	\$669,843
2. Miles made by owned cars	4,969,216	4,828,053	5,795,878
3. Cars owned at close of year:			
a. Refrigerator	13,031	11,662	11,347
b. Petroleum tank	79,373	76,014	75,387
c. Other tank	76,348	74,548	72,363
d. Other cars	181,255	176,899	187,583
e. Total	350,007	339,123	346,680

¹ Confined to owners of 10 or more cars. Does not include railroad owned or controlled car lines.

² Preliminary.

TABLE 10.—Class I intercity motor carriers of property condensed income statement, financial ratios, and employee data

[Dollars in thousands]

Item	1970	1971	1972 ¹
1. Number of carriers represented	1,376	1,355	1,571
CONDENSED INCOME STATEMENT			
2. Operating revenues:			
a. Freight-intercity-common carrier	\$10,147,205	\$11,879,999	\$13,719,960
b. Freight-intercity-contract carrier	332,118	404,386	505,520
c. Freight-local cartage	457,788	503,861	586,805
d. Intercity transportation for other class I and class II motor carriers	91,558	102,306	159,340
e. Other operating revenue	108,294	120,685	197,639
f. Total operating revenues	11,136,963	13,011,237	15,169,264
3. Operating expenses	10,762,685	12,237,704	14,286,279
4. Lease of distinct operating unit—net	—1,657	—1,027	—981
5. Net carrier operating income	372,621	772,506	882,004
6. Other income and miscellaneous deductions from income—net	—97,392	—80,386	—65,710
7. Income taxes on ordinary income ²	135,424	283,331	305,556
8. Ordinary income	139,805	408,789	510,738
9. Extraordinary and prior period items—net ³	10,379	903	2,655
10. Net income	150,184	409,692	513,393
NET INVESTMENT AND EQUITY			
11. Net investment in carrier operating property and equipment, plus working capital	2,634,816	2,849,317	3,303,579
12. Shareholders' and proprietors' equity	2,243,728	2,585,239	2,994,314
FINANCIAL RATIOS (PERCENT)			
13. Operating ratio (L. 3 ÷ L. 2f)	96.64	94.05	94.18
14. Return on net investment (L. 5—L. 7 ÷ L. 11)	9.00	17.17	17.45
15. Return on equity (L. 10 ÷ L. 12)	6.69	15.85	17.15
EMPLOYEE DATA			
17. Average number	500,445	506,765	540,134
18. Compensation	\$4,913,899	\$5,675,899	\$6,658,392

¹ Preliminary.

² Does not include income taxes applicable to sole proprietorships, partnerships, and corporations that have elected to be taxed under section 1372(a) of the Internal Revenue Code, also does not include income taxes on extraordinary and prior period items.

³ Includes income taxes on extraordinary and prior period items.

TABLE 11.—Class I intercity motor carriers of passengers condensed income statement, financial ratios, and employee data

[Dollars in thousands]

Item	1970	1971	1972 ¹
1. Number of carriers represented	71	71	75
CONDENSED INCOME STATEMENT			
2. Operating revenues:			
a. Passenger intercity schedules	\$510,933	\$540,104	\$539,816
b. Local and suburban schedules	13,299	12,634	11,730
c. Charter or special service	79,909	85,459	93,703
d. Other operating revenues	117,595	120,164	129,554
e. Total operating revenues	721,736	758,361	774,803
3. Operating expenses	638,992	664,353	691,593
4. Lease of carrier property—net	—17	—20	—231
5. Net carrier operating income	82,727	93,988	82,979
6. Other income and income deductions			
—net	5,262	9,004	7,821
7. Income taxes on ordinary income ²	35,919	38,498	34,053
8. Ordinary income	52,070	64,494	56,747
9. Extraordinary and prior period items—net ³	9	33	55
10. Net income	52,079	64,527	56,802
NET INVESTMENT AND EQUITY			
11. Net investment in carrier operating property and equipment, plus working capital	450,790	435,225	412,763
12. Shareholders' and proprietors' equity	388,413	414,547	390,028
FINANCIAL RATIOS (PERCENT)			
13. Operating ratio (L. 3 ÷ L. 2e)	88.54	87.60	89.26
14. Return on net investment (L. 5—L. 7 ÷ L. 11)	10.38	12.75	11.85
15. Return on equity (L. 10 ÷ L. 12)	13.41	15.57	14.56
EMPLOYEE DATA			
16. Average number	34,383	34,731	35,145
17. Compensation	\$316,705	\$333,887	\$343,735

¹ Preliminary.

² Does not include income taxes applicable to sole proprietorships, partnerships, and corporations that have elected to be taxed under sec. 1372(a) of the Internal Revenue Code. Also does not include income taxes on extraordinary and prior period items.

³ Includes income taxes on extraordinary and prior period items.

TABLE 12.—Classes A and B water carriers by inland and coastal waterways, condensed income statement, financial ratios, and employee data

[Dollars in thousands]

Item	1970	1971	1972 ¹
1. Number of carriers represented	82	77	77
CONDENSED INCOME STATEMENT			
2. Waterline operating revenues:			
a. Line service—freight	\$276,619	\$306,388	\$332,375
b. Line service—passenger	10,739	10,155	11,292
c. Line service—other	13,448	12,256	13,118
d. Other operating revenue	5,359	3,042	8,125
e. Revenue from terminal operations	24,675	28,855	36,439
f. Rent and motor carrier revenue	40,997	33,323	31,363
g. Total waterline operating revenues	371,837	394,019	432,712
3. Waterline operating expenses	329,116	348,013	375,499
4. Net revenue from waterline operations	42,721	46,006	57,213
5. Income taxes on ordinary income ³	15,543	14,939	12,401
6. Ordinary income	27,019	28,027	31,339
7. Extraordinary and prior period items—net ⁴	782	—650	—7,757
8. Net income	27,801	27,377	23,582
9. Net investment in transportation property plus working capital	271,118	316,061	383,932
10. Shareholders' equity	266,075	285,364	292,969
FINANCIAL RATIOS (PERCENT)			
11. Operating ratio (L. 3 ÷ L. 2g)	88.51	88.32	86.78
12. Return on net investment (L. 4—L. 5 ÷ L. 9)	10.02	9.83	11.67
13. Return on equity (L. 8 ÷ L. 10)	10.45	9.59	8.05
EMPLOYEE DATA			
14. Average number	8,324	8,431	8,453
15. Compensation	\$79,639	\$85,025	\$90,600

¹ Preliminary.

² Does not include income taxes on extraordinary and prior period items.

³ Includes income taxes on extraordinary and prior period items.

TABLE 13.—Maritime carriers condensed income statement, financial ratios, and employee data

[Dollars in thousands]

Item	1970	1971	1972 ¹
1. Number of carriers represented	18	18	16
CONDENSED INCOME STATEMENT			
2. Waterline operating revenues:			
a. Coastwise and intercoastal service	\$89,019	\$82,813	\$107,946
b. Charter revenue	54,080	60,866	56,274
c. Total vessel operating	766,088	681,075	810,305
d. Total waterline operating revenues	832,690	748,974	884,518
3. Total waterline operating expenses	800,039	728,460	846,775
4. Gross profit from shipping operations	32,651	20,514	37,743
5. Federal income taxes on ordinary income ²	—235	—7,730	—4,492
6. Ordinary income	14,743	10,716	32,220
7. Extraordinary and prior period items—net ³	6,853	—1,427	—3,243
8. Net income	21,596	9,289	28,977
9. Net investment in transportation property and equipment plus working capital	614,955	654,280	634,278
10. Shareholders' equity	430,517	479,730	538,946
FINANCIAL RATIOS (PERCENT)			
11. Operating ratio (L. 3 ÷ L. 2d)	96.08	97.26	95.73
12. Return on net investment (L. 4—L. 5 ÷ L. 9)	5.35	4.32	6.66
13. Return on equity (L. 8 ÷ L. 10)	5.02	1.94	5.38
EMPLOYEE DATA			
14. Average number	14,848	10,662	10,058
15. Compensation	\$156,273	\$125,679	\$141,214

¹ Preliminary.

² Does not include federal income taxes on extraordinary and prior period items.

³ Includes federal income taxes on extraordinary and prior period items.

TABLE 14.—Class A freight forwarders condensed income statement, financial ratios, and employee data

[Dollars in thousands]

Item	1970	1971	1972 ¹
1. Number of forwarders represented	65	74	91
CONDENSED INCOME STATEMENT			
2. Operating revenues:			
a. Transportation revenues	\$594,279	\$587,338	\$725,108
b. Transportation purchased (debit):			
1. Railroad	175,198	160,481	168,784
2. Motor	89,958	87,643	87,619
3. Water	7,132	13,668	19,568
4. Pickup, delivery, and transfer	98,959	99,872	151,796
5. Other	16,203	18,194	60,342
6. Total transportation purchased	387,450	379,858	488,109
c. Operating revenues	211,038	216,117	252,121
3. Operating expenses	207,564	201,525	233,492
4. Net revenue from forwarder operations	3,474	14,592	18,629
5. Income taxes on ordinary income ²	534	6,675	7,676
6. Ordinary income	—1,331	6,600	8,338
7. Extraordinary and prior period items—net ³	—616	—1,285	—596
8. Net income	—1,947	5,315	7,742
NET INVESTMENT AND EQUITY			
9. Net investment in transportation property plus working capital	32,530	38,761	48,336
10. Shareholders' equity	18,877	24,977	63,034
FINANCIAL RATIOS (PERCENT)			
11. Operating ratio (L. 3 ÷ L. 2c)	98.35	93.25	92.61
12. Return on net investment (L. 4—L. 5 ÷ L. 9)	9.04	20.43	22.66
13. Return on equity (L. 8 ÷ L. 10)	—	21.28	14.60
EMPLOYEE DATA			
14. Average number	9,665	9,028	9,478
15. Compensation	\$82,860	\$82,823	\$97,767

¹ Preliminary.

² Does not include income taxes on extraordinary and prior period items.

³ Includes income taxes on extraordinary and prior period items.

TABLE 15.—Pipeline companies ¹ condensed income statement, financial ratios, and employee data

[Dollars in thousands]

Item	1970	1971	1972 ²
1. Number of companies represented	101	99	99
CONDENSED INCOME STATEMENT			
2. Operating revenues	\$1,188,254	\$1,249,299	\$1,337,861
3. Operating expenses	672,336	712,178	780,162
4. Net carrier operating income	515,918	537,121	557,699
5. Federal income taxes on ordinary income ³	136,110	134,951	127,284
6. Ordinary income	304,381	319,557	323,908
7. Extraordinary and prior period items—net ⁴	7,471	—5,997	7,792
8. Net income	311,852	313,560	331,700
NET INVESTMENT AND EQUITY			
9. Net investment in carrier property plus working capital	3,629,395	4,016,132	4,341,695
10. Shareholders' equity	1,826,865	1,915,841	2,031,498
FINANCIAL RATIOS (PERCENT)			
11. Operating ratio (L. 3 ÷ L. 2)	56.58	57.01	58.31
12. Return on net investment (L. 4—L. 5 ÷ L. 9)	10.46	10.01	9.91
13. Return on equity (L. 8 ÷ L. 10)	17.07	16.37	16.33
EMPLOYEE DATA			
14. Average number	15,017	14,791	14,814
15. Compensation	\$162,103	\$171,839	\$183,691

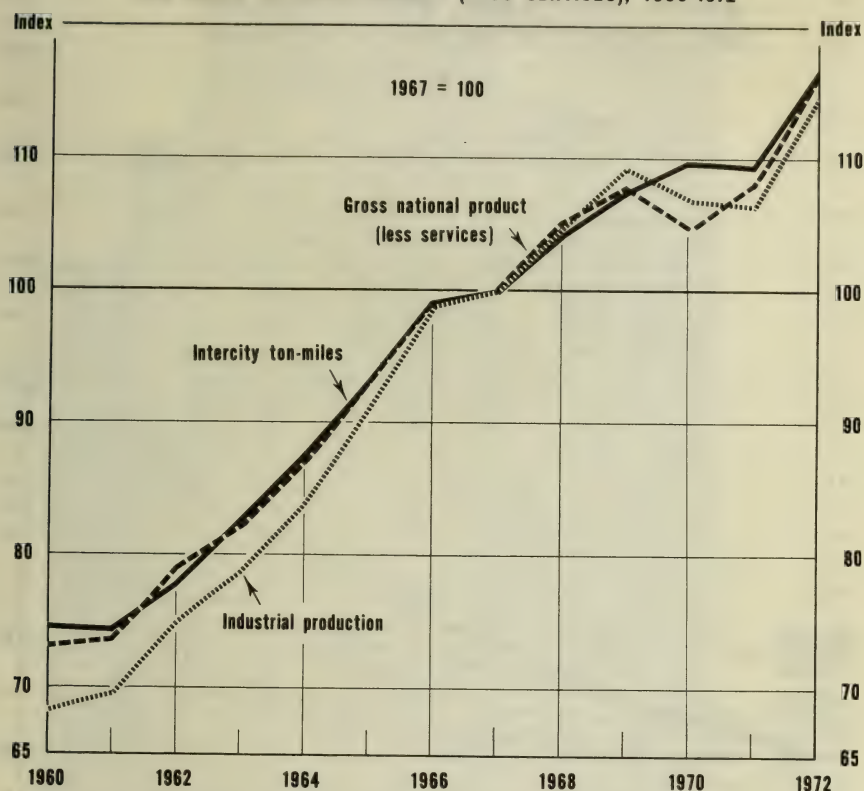
¹ Available data included for pipeline departments of five large oil companies.

² Preliminary.

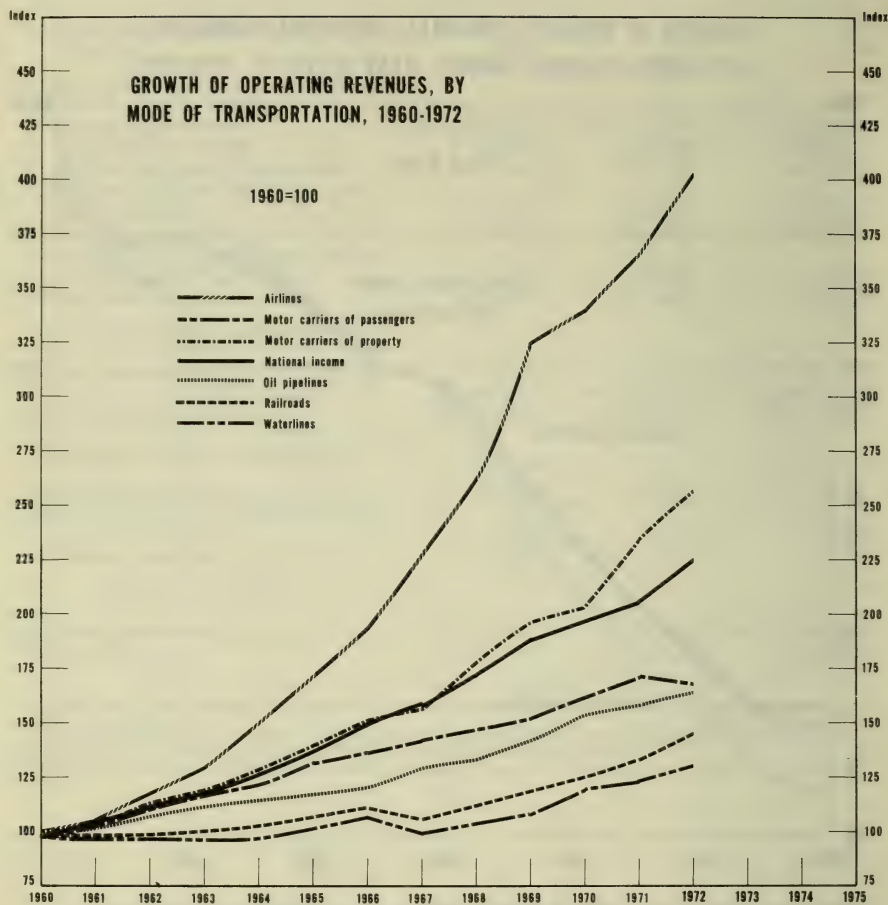
³ Does not include federal income taxes on extraordinary and prior period items.

⁴ Includes income taxes on extraordinary and prior period items.

INDEXES OF INTERCITY TON-MILES, INDUSTRIAL PRODUCTION, AND GROSS NATIONAL PRODUCT (LESS SERVICES), 1960-1972



Sources: Federal Reserve Board, Office of Business Economics, and Interstate Commerce Commission.

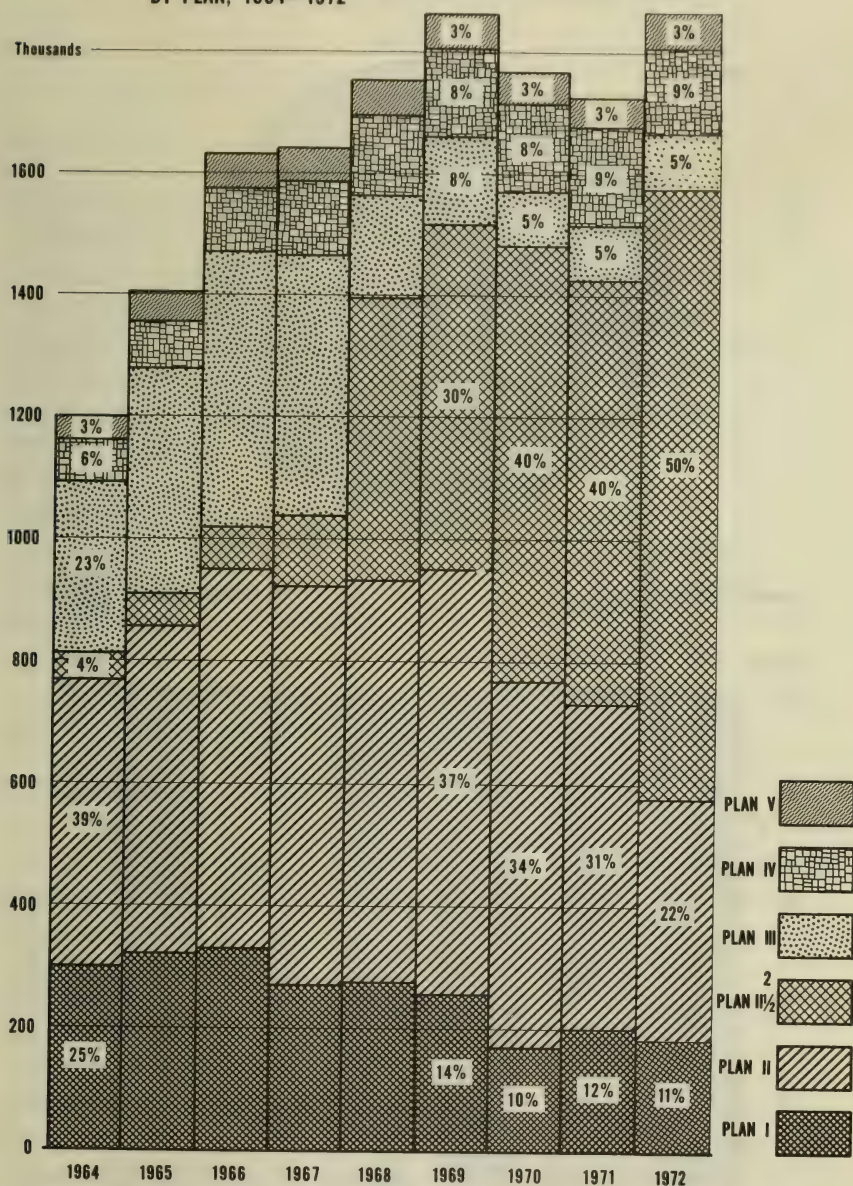


Note: Excludes Electric Railways and Railway Express which combined are less than one percent of the total 1972 revenues.

Source: Annual reports to the Interstate Commerce Commission and the Civil Aeronautics Board.

National income — Department of Commerce.

PIGGYBACK TRAILER AND CONTAINER TERMINATIONS
REPORTED BY CLASS I RAILROADS
BY PLAN, 1964-1972¹

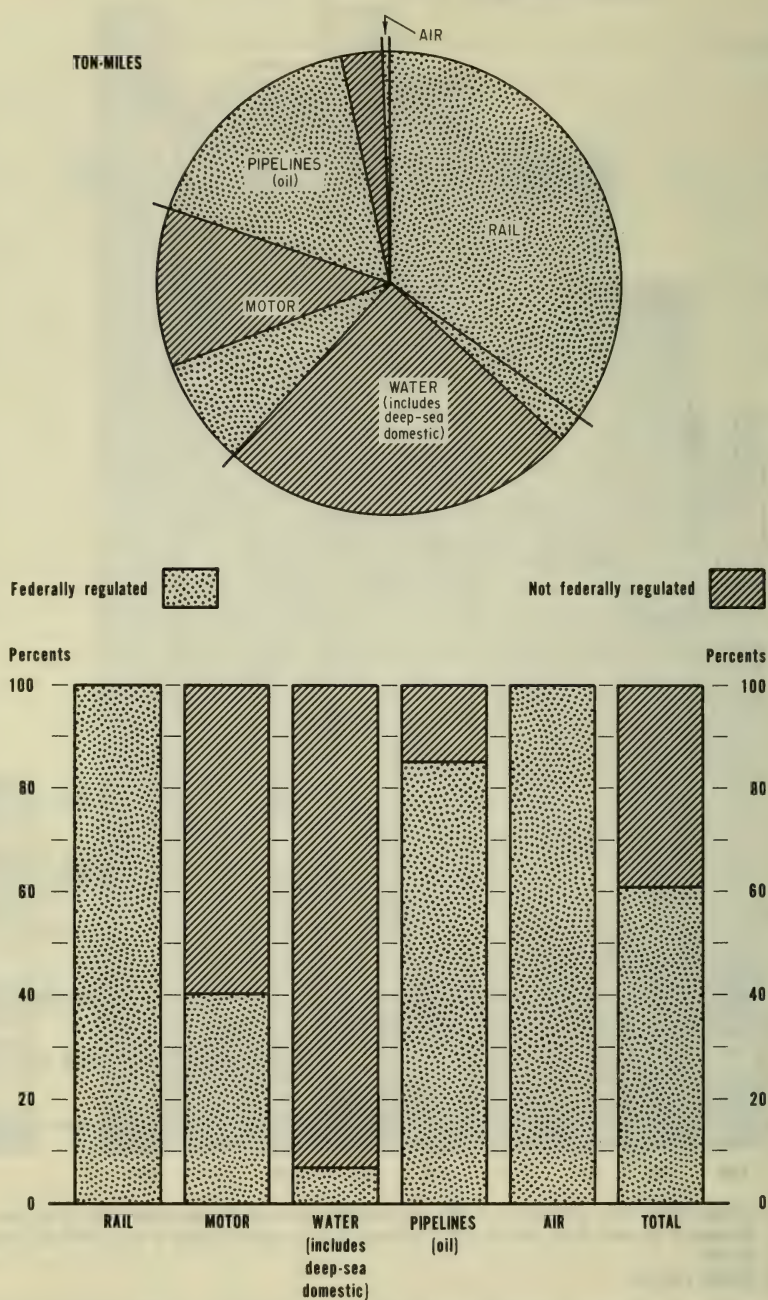


1. Excludes various other arrangements; in 1972 such exclusions accounted for approximately 6% of the total. Revisions in the report form effective July 1, 1972, may have had some influence in the relative plan changes in 1972.

2. Includes Plan II½.

Source: Bureau of Economics, Statement No. 66-1, Piggyback Traffic Characteristics (1966) and Transport Economics.

INTERCITY TON-MILES OF FEDERALLY REGULATED AND NOT FEDERALLY REGULATED CARRIERS, 1971

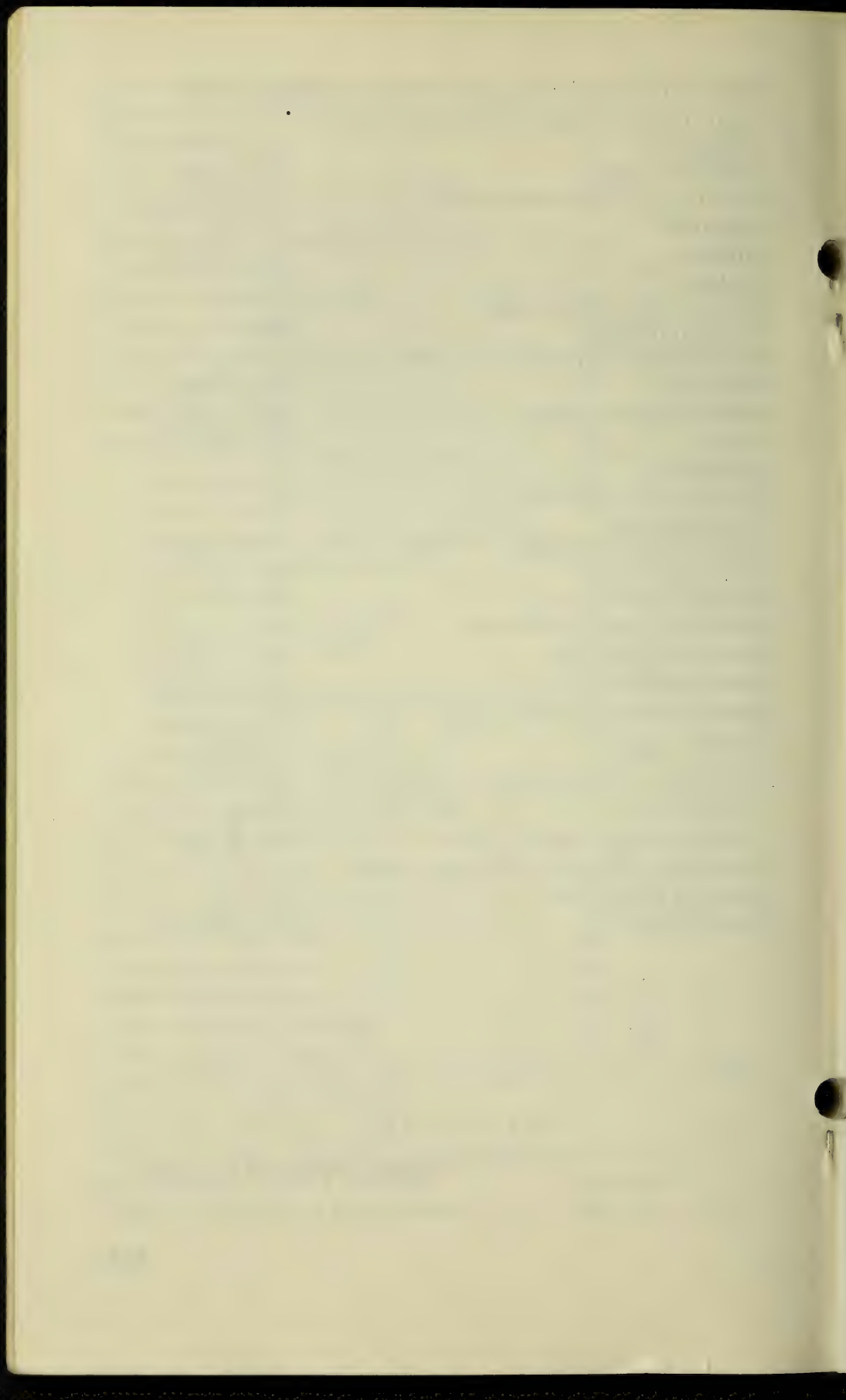


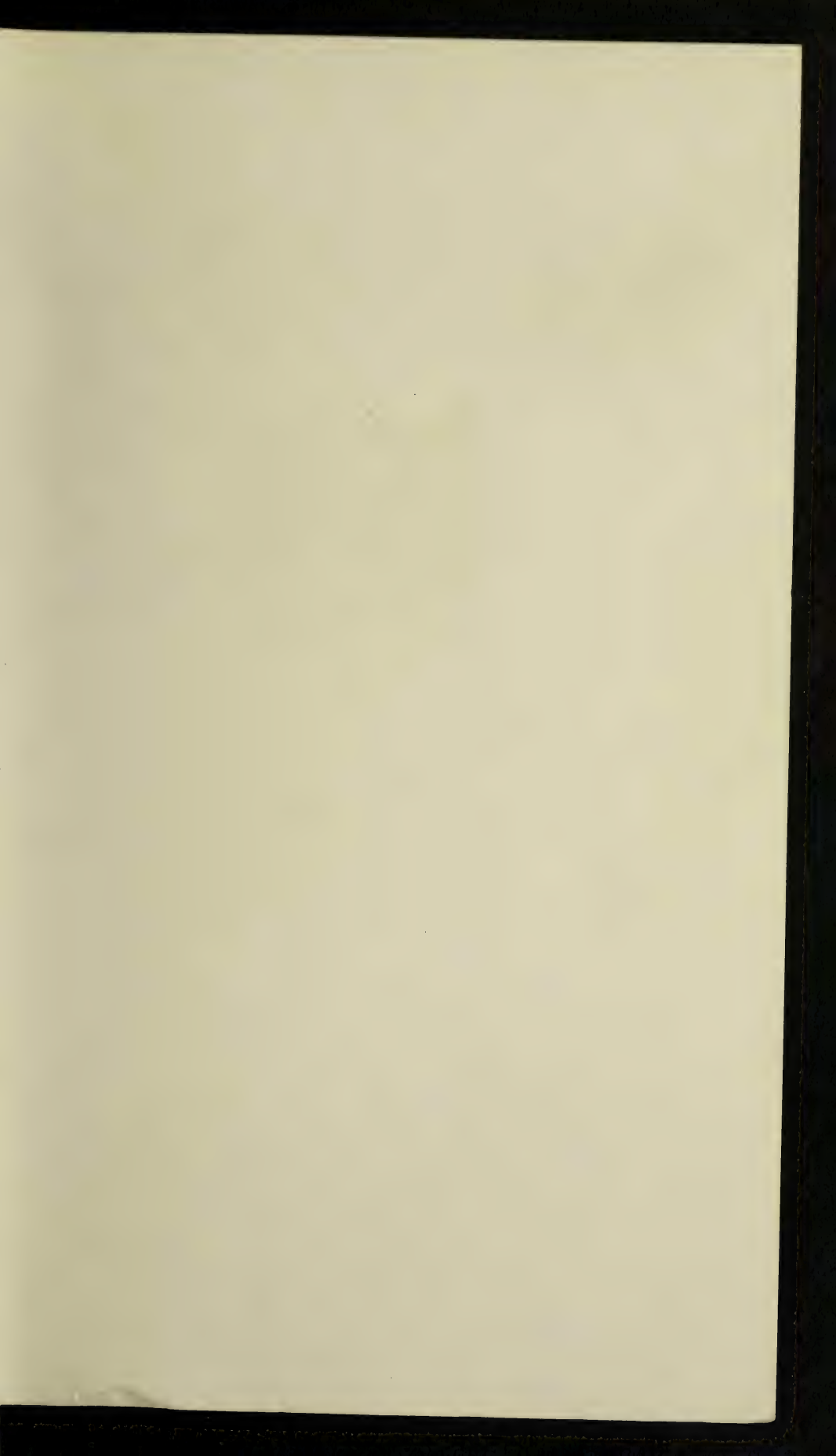
INDEX

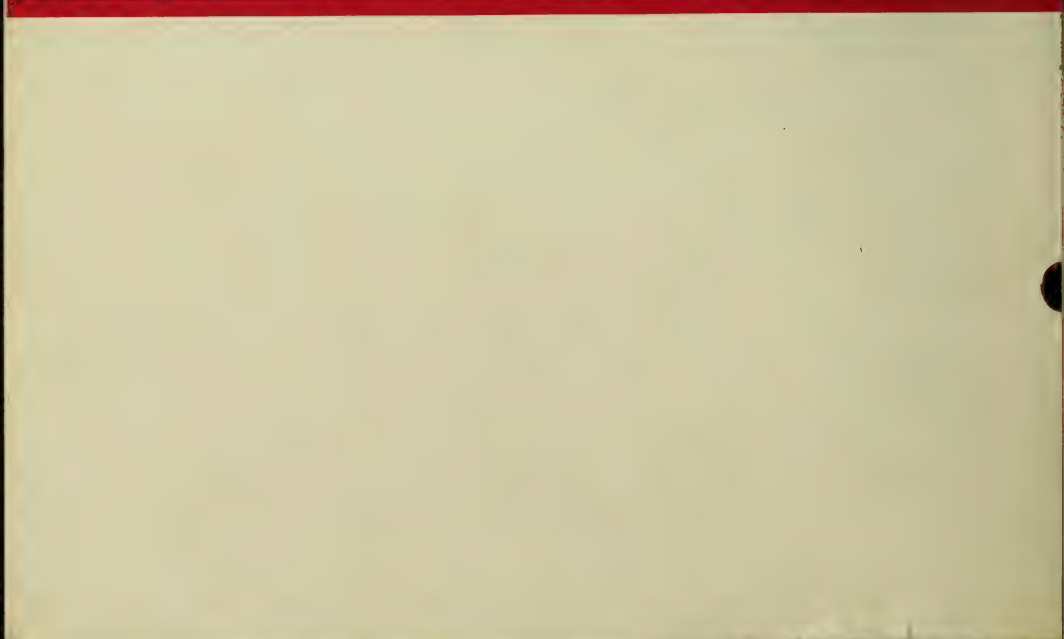
Abandonments	5, 81
Accounting	64
Advisory Committees	61, 67
Agricultural cooperatives	74, 83
Amtrak	11, 64, 89
Automation	60, 95
Bankruptcy Act	4
Boston & Maine Railroad	4
Brokers	33
Buses	39
Car service orders	116-122
Car shortages	20, 79, 87
Carrier financial condition:	
Buses	39, 136
Express companies	46
Freight forwarders	43, 139
Motor carriers of property	26, 135
Pipelines	46, 140
Railroads	3, 131-133
Water carriers	45, 137-138
Central Railroad Co. of New Jersey	4, 10, 19
Charter services	40-42
Chicago, Rock Island & Pacific Railroad Co.	4
Commercial zones and terminal areas	36, 43-44
Conglomerates	50
Construction, rail lines	7
Consumer protection	2, 37, 56, 71
Containerization	47, 50, 59
Contract carriers	33, 48
Court actions	24, 49, 62, 79
Department of Justice	8, 74
Department of Transportation	10, 12, 29
Discontinuances, passenger train service	14
Discrimination	75, 83, 91
Enforcement program	70-75, 123

Environmental issues	5, 15, 45, 61
Erie Lackawanna Railway Co.	4, 8, 85
Exemptions	42, 46, 73, 83
Express companies	46, 54, 83, 130
Federal Aid Railroad Act of 1973	86, 88
Federal Maritime Commission	47, 90-91
Florida East Coast Railway Co.	24
Freight forwarders	43, 139
General Accounting Office	12
Holding companies	50-52
Household goods carriers	2, 37, 44, 71
Intermodal operations	47
Interstate Commerce Commission:	
Administration	92
Appropriations and employment	127
Automation	95
Budget, fiscal 1974	84
Cost reduction and management improvement	92
Evaluation program activities	92
Field activities	2, 23, 94
Manpower development	97
Mobilization program	95, 113
Organization	92, 101
Paperwork and records management	96
Publications	124
Workload	92, 108
LASH operations	45
Legislative activities of Commission	11, 50, 54, 84
Lehigh Valley Railroad Co.	4, 10
Loan guarantees	8, 85
Loss and damage claims	38, 40, 54
Mergers and acquisitions	8, 26, 48, 82
Mini-landbridge tariffs	49
Mini-Ship operations	45
Mobilization program	95, 113
Motor carriers—Passenger	39, 136
Motor carriers—Property	26, 135
National Environmental Policy Act, implementation	61, 80, 90
New Hope and Ivyland Railroad	4
New York, New Haven and Hartford R.R. Co.	8
New York, Susquehanna & Western Railroad Co. ..	8
Northeastern railroad situation	10, 86-87
Office of Emergency Preparedness	23, 95

Office of Management and Budget: Management improvement program, implementation	93
Oil pipelines	46, 67, 140
Operating rights	31, 40, 47
Penn Central Transportation Co.	4, 10, 25, 81
Piggyback	47, 143
Pipelines	46, 67, 140
Pooling	27
Private v. for-hire carriage	84
Procedural matters	68
Rail Passenger Service Act of 1970	11
Railroads	3, 131-133
Railway Express Agency	46, 54, 83, 130
Rates	15, 30, 43, 48, 82
Reading Co.	4
Rebates and concessions	72
Reorganizations	3
Rulemaking proceedings	15, 24, 76-79
Safety and fitness	28
SEABEE operations	45
Seaboard Coast Line Railroad	24
Securities applications	51
Small shipments	26, 32, 43, 59
Special projects counsel	20
Statistics	129-140
Strikes	10, 25, 40
Suspension and Fourth Section Board	56
Tariffs	48, 56
Through routes and joint rates	48, 56, 85
Train discontinuances, passenger service . . .	14
Unlawful operations	28, 73
Water carriers	45, 137-138







385.731

Un 3

v. 88

Committee

ICC

88th Annual Report to Congress

1974

INTERSTATE COMMERCE COMMISSION



THE LIBRARY OF THE

JUN 17 1975

UNIVERSITY OF ILLINOIS
AT URBANA-CHAMPAIGN



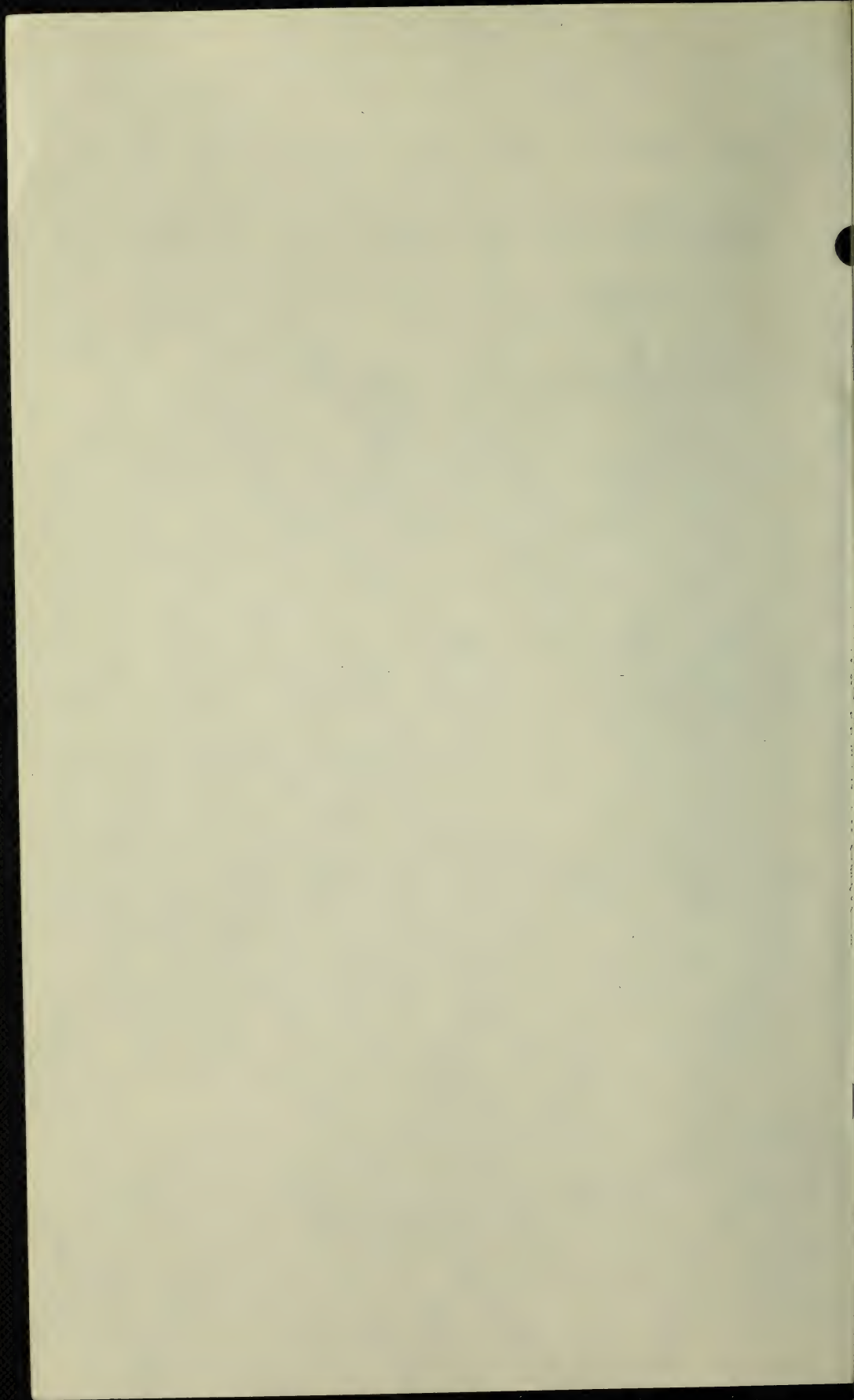
88th ANNUAL REPORT OF THE

**INTERSTATE
COMMERCE
COMMISSION**

Fiscal Year Ending June 30, 1974



For sale by the Superintendent of Documents, U.S. Government Printing Office
Washington, D.C. Price \$1.65 (paper cover)
Stock Number 2600-00976



CONTENTS

	Page
The Commission	vi
Introduction	1
Protecting the Consumer	3
The Energy Shortage	5
Regulation of the Carrier Industries	9
Conglomerates and Diversification	9
Securities	10
Railroads	13
Railroad debt structure	15
Northeastern railroad situation	15
Reorganizations	18
Labor problems	20
Construction and operation	21
Abandonments	23
Mergers, unifications, and purchases	26
Passenger service	27
Division of revenue	30
Rates	31
Freight car service	34
Motor Carriers—Property	38
General	38
Bankruptcies	39
Mergers, unifications, and purchases	39
Safety	41
Household goods	42
Rates	44
Operating rights	45
Motor Carriers—Passenger	49
Freight Forwarders	51
Water Carriers	52
Express Companies	54
Pipelines	56
Intermodal Services	57
Tariffs	59
Accounting	62
Environment	64

	Page
Enforcement	69
Carrier Service.....	69
Illegal Operations.....	72
Practices Affecting Carrier Capitalization.....	73
Control and Antitrust Matters.....	73
Financial Oversight.....	73
Rulemaking	75
Court Actions	79
Legislation	83
Commission Proposals.....	83
Congressional Action on Commission Proposals.....	84
Commission Testimony on Other Proposals.....	84
Regional Rail Reorganization Act.....	87
Barge Mixing Rule.....	88
Oil Pipelines.....	89
Transportation of Recycled and Recyclable Commodities.....	89
Transportation Improvement Act, Surface Transportation Act, and Freight Car Legislation.....	90
Corporate Disclosure.....	91
Securities Regulation.....	91
Administration	93
Employment.....	93
Management Improvement.....	93
Organizational Changes.....	94
Paperwork Reduction.....	95
Commission Budget.....	95
Appendix	97
Commission Organization.....	97
Commission Workload.....	104
Publications.....	114
Appropriations and Employment.....	117
Carrier Financial and Statistical Data.....	119
Index	135

To the Congress of the United States:

WASHINGTON, D.C., *December 31, 1974.*

It is my pleasure to submit the 88th Annual Report of the Interstate Commerce Commission, in accordance with section 21 of the Interstate Commerce Act.

The report generally embraces the 1974 fiscal year ended June 30, 1974, except in the discussion of significant actions that transcend the 12-month period or where necessary to conform to various statistical analyses. It is a report of the Commission and its staff of 1,895, two-thirds of whom serve at the headquarters in Washington, D.C., with the remainder situated in 78 offices throughout the country. It is a report that summarizes the manner in which the agency handled:

- 9,436 formal cases, principally involving rates, operating rights, and finance proceedings.
- 11,390 informal cases, acted on under public observation but without the need for public hearing.
- 107 challenges in the Federal court system.
- 386,228 tariffs requiring agency review, with an average of 4,150 pages of tariff material received each working day.
- 1,291 examinations of accounting systems of regulated carriers.
- 315 service orders designed to reduce shortages and buildups of railroad freight cars and attain more equitable distribution of the Nation's car fleet.
- 688 prosecutions of violators of the Interstate Commerce Act or Commission orders.
- 19 appearances before Congressional Committees.
- 1,972 hearing-days before some 70 administrative law judges assigned to the Commission.

The statement of appropriations and aggregate expenditures for the 1974 fiscal year appears in appendix D.

GEORGE M. STAFFORD,
Chairman.

THE COMMISSION

(As of the close of the fiscal year—June 30, 1974)

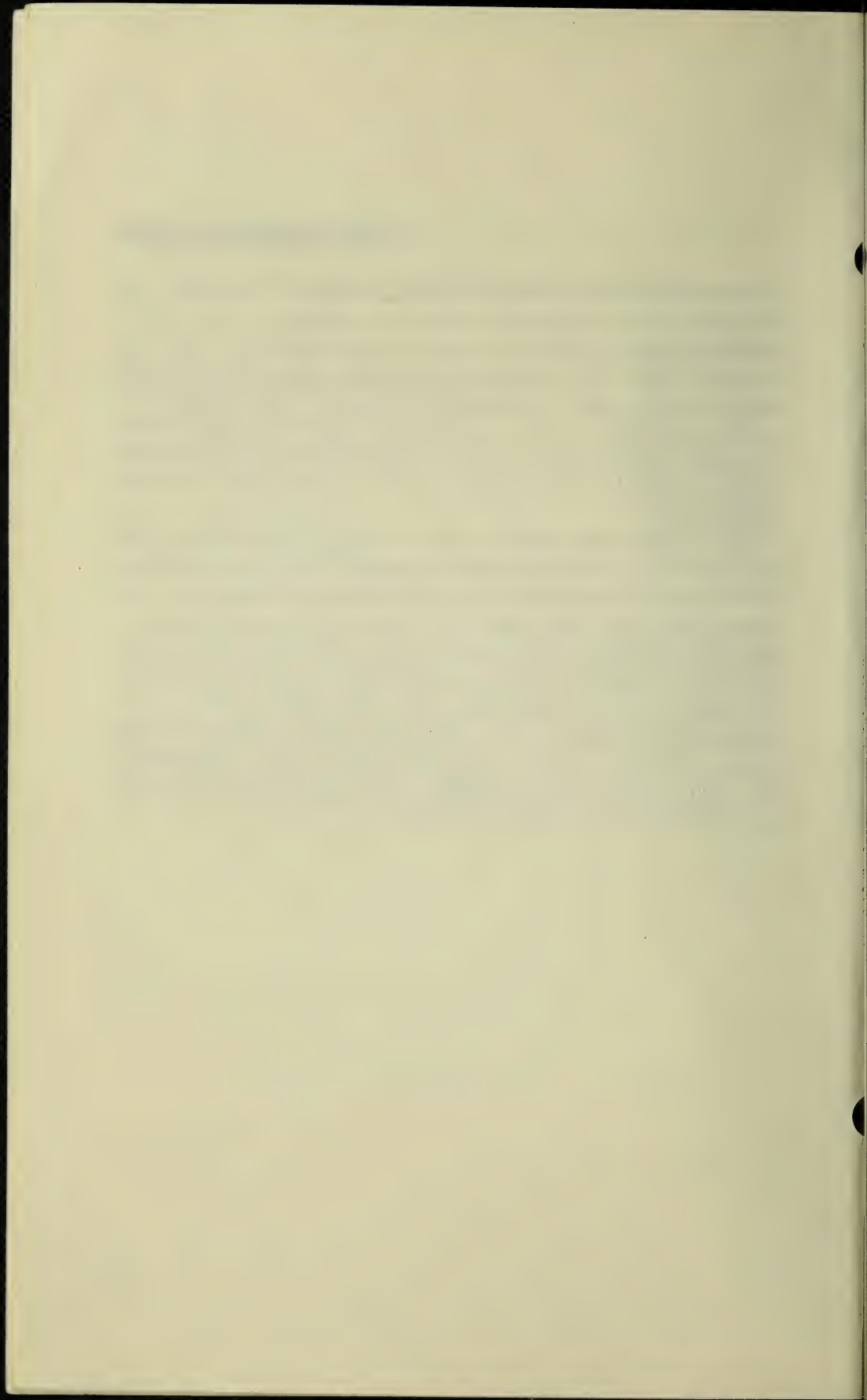
	<i>Appointed</i>	<i>Term expires Dec. 31</i>
George M. Stafford, <i>Chairman</i> (R) Kansas.....	1967	1980
Alfred T. MacFarland, <i>Vice Chairman</i> (I) Tennessee.....	1972	1978
Kenneth H. Tuggle (R) Kentucky.....	1953	1975
Rupert L. Murphy (D) Georgia.....	1955	1978
Virginia Mae Brown (D) West Virginia.....	1964	1977
Willard Deason (D) Texas.....	1965	1979
Dale W. Hardin (R) Virginia.....	1967	1977
Robert C. Gresham (R) Maryland.....	1969	1974
W. Donald Brewer (R) Colorado.....	1970	1976
A. Daniel O'Neal, Jr. (D) Washington.....	1973	1979
Charles L. Clapp (R) Massachusetts.....	1974	1980

The Commission began the fiscal 1974 year with its statutory 11-member composition, but this posture was soon shattered by the tragic death of Commissioner Chester M. Wiggin, Jr., July 31, 1973, in an aircraft accident at Boston, Mass. His successor, Commissioner Charles L. Clapp, took his oath of office March 14, 1974. The Commission maintained full membership for the remainder of the fiscal year, until the retirement of Commissioner W. Donald Brewer on June 30, 1974.

INTRODUCTION

Seldom in its history has the Interstate Commerce Commission witnessed such abrupt and generally unpredicted national and international events that had to be phased into transportation regulation as those that occurred in fiscal 1974. Freight car deficits that had not been matched within memory, energy shortages of crisis proportions, environmental demands, after effects of the massive grain sale to the Soviet Union, restructuring needs for the bankrupt northeast railroads, and a rampant inflationary spiral that penalized carriers, shippers, and consumers indiscriminately.

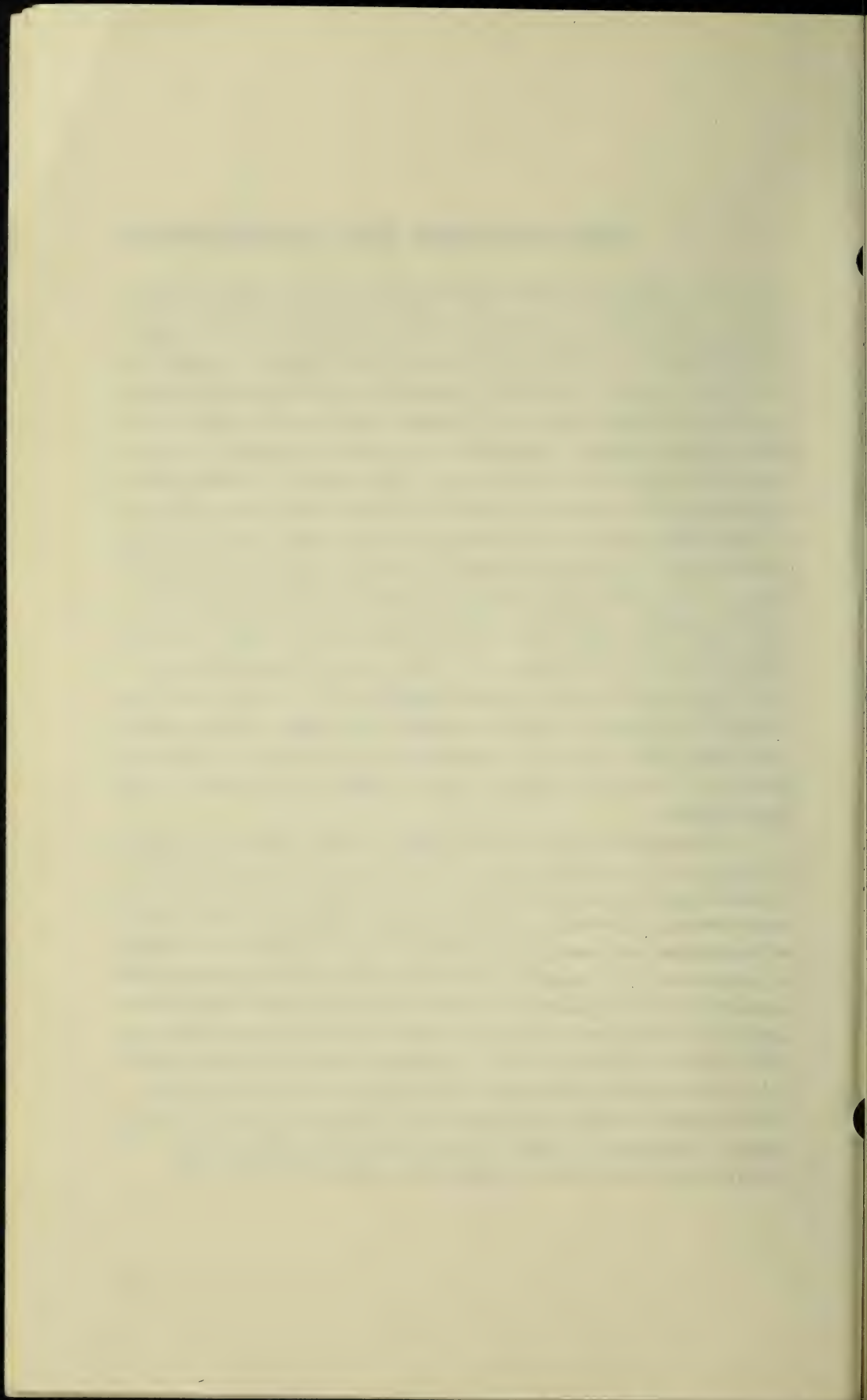
The regulatory process did not solve any one of these problem areas. Nor, would it seem, that either total Government control or total freedom from Government-ordered restraints could have provided solutions. Each of these means has a harsh edge for the consumer. Not surprisingly, we continue to support the regulatory process as offering the fairest and most effective opportunities for reasoned, rational, and fully exploratory approaches to the total dimensions of the issues involved. This can be tedious and time consuming, but under the demands of compressed time frames, regulatory procedure was found this year to be adaptable to fast-paced, decision making capabilities to bring prompt corrective action to dysfunctions in the transportation system.



PROTECTING THE CONSUMER

Nowhere in the Interstate Commerce Act is the word consumer used. Yet, the total concept of the act has always been acknowledged to be protection of the consumer, whether as the principal factor in the public interest or in the national interest. It is difficult to conceive of either the public or the national interest being positively served if consumer welfare is ignored. The safeguards in the Interstate Commerce Act exist for the benefit of the consumer. While the agency itself is expected to act on behalf of the consumer, his full range of rights cannot be utilized unless he is aware of those rights and can seek effective redress when violations of those rights occur. For this reason the Commission has devoted an extensive share of its resources toward offering the consumer meaningful access to the assistance he requires. Formal and informal guidance is available through such facilities as the Bureaus of Accounts, Enforcement, Operations, and Traffic; the Consumer Information Office; and the nationwide network of field offices. A growing corps of transportation consumer specialists is available at the Washington, D.C., headquarters and throughout the country. Consumer-oriented technicians closely monitor newly filed tariffs to protect the consumer in fields where the unsophisticated or occasional shipper would hardly be expected to be knowledgeable.

The Commission's attitude is not limited to making facilities available to consumers. It is reaching out to the consumer. In its regulation of the household goods moving industry, the Commission this year took the innovative step of requiring carriers to provide consumers, before a move, with a postage-paid questionnaire. This permits the consumer who makes an interstate move to report his views to the Commission concerning the manner in which a regulated carrier has met his obligations. The data that result will be made public. The Commission took another innovative step which, effective February 15, 1975, will require household goods carriers to furnish summaries of their respective service records for the prior year. This will enable a shipper to compare such summaries and make a knowledgeable judgment of which carrier's service he prefers. Thus, the quality of service will not be an unknown quantity to the consumer.



THE ENERGY SHORTAGE

Reduced supplies, uneven distribution, and increasing costs of energy contributed to the urgent need for developing practical energy strategies this year. With only 6 percent of the Earth's population, the United States consumes one-third of the world's energy. Although the Nation has vast coal reserves, underdeveloped oil shale deposits, and access to a highly sophisticated technology, the national economy and security will continue for some time to depend upon foreign sources of energy, particularly petroleum. When the Arab States imposed an embargo on oil exported to the United States, the need for fuel conservation came to the forefront of our national priorities with dramatic speed during the fall of 1973.

In an effort to expedite the development of realistic policy adjustments in energy use, the Commission embarked on several new programs during the year. In its own operations, reductions were made in fuel consumption required for space heating and cooling. Energy consumption for lighting was reduced. Unnecessary travel was eliminated, and necessary travel was directed toward energy-efficient means.

The following is a sequential listing of the Commission's energy-related proceedings:

- *Ex Parte No. 301, the Energy Crisis and the Need for Emergency Transportation Legislation.*—This investigation, announced November 29, 1973, resulted from passage by the Senate of S. 2589 which called for the Commission to develop legislative recommendations for additional regulatory authority to cover conservation of fuel during energy emergencies. S. 2589 and H.R. 11450 were passed by the Congress in compromise form but then vetoed by the President. Nevertheless, it was thought that an investigation of this nature by the Commission could produce beneficial results, and at the end of the fiscal year public comments were still being accepted.
- *Motor Common Carriers of Property, Routes, and Service* (119 MCC 170).—In November 1973, the Commission undertook an investigation into the need to revise its basic approach to the joinder of separate grants of operating authority by motor carriers and the resulting gateway operations.

The new regulations (119 MCC 535) provide that when a carrier can save up to 20 percent of the distance it would travel by operating over the

most direct route between authorized service points rather than by observing a gateway, the gateway need not be observed if certain filing requirements are met. Joinder of grants of authority is prohibited when the most direct route is more than 20 percent shorter than the longer gateway route. Special procedures also were established whereby a carrier may temporarily continue prior operations, while its application for authority to provide for more direct service in order to retain its traffic over such routes is handled by the Commission. An appeal to the Commission's decision is pending in court. (See also Environment, p. 64.)

- *Special Permission No. 74-1825, Common Carriers of Passengers, Express, and Property and Freight Forwarders—Rate Increases Account Increases in Fuel Cost.*—By an order served December 13, 1973, we reduced from the customary 30 or 45 days down to 10 days the time between the filing by a carrier of a rate change to recover increased fuel costs and the date on which the rate could become effective.

As the Nation's fuel situation became more critical it became evident that more immediate relief was needed if motor common carriers were to be able to recover increased fuel costs. On February 7, 1974, the Commission issued *Special Permission No. 74-2525, Emergency Fuel Surcharge for Line-Haul Transportation Charges and Other Charges.—Motor Common Carriers*, which permitted motor carriers to file on 1-day's notice an increase in charges for line-haul transportation and other services which consume fuel. The order specified, however, that the percentage surcharge allowed could not exceed six percent, and that it was the Commission's intention to analyze the impact of fuel expenses on carriers' overall costs.

The surcharges under Special Permission No. 74-2525 were required to be canceled within 45 days of the July 10, 1974, service date of the report and order in Ex Parte No. MC-92 (see p. 7). Appeals from the Commission's orders in Special Permission No. 74-2525 and Ex Parte MC-92 are pending in district courts.

- *Ex Parte No. MC-43 (Sub-No. 2), Adjustment of Compensation for Equipment Leased by Motor Carriers of Property Because of Rising Fuel Costs.*—In the notice initiating this proceeding, served January 30, 1974, the Commission proposed that compensation paid to lessors of motor vehicles by regulated carrier-lessees be adjusted by the amount by which fuel costs had increased since May 15, 1973. The latter date was selected because it was the price of fuel on that date to which the Cost of Living Council allowed adjustments in ceiling prices to be added. During the week ending February 8, 1974, the Congress enacted and the President signed

what became Public Law 93-249, requiring the Commission's order to be effective on February 15, 1974.

- *Ex Parte No. MC-43 (Sub-No. 3), Lease to Regulated Motor Carriers of Vehicles With Drivers by Private Carriers.*—This proceeding was instituted to determine whether in light of reduced energy supplies, regulated motor carriers of property should be allowed to augment their operating equipment by the lease for a single trip of equipment of private carriers. The number of comments received indicates a widespread interest in the proceeding. (See also *Environment*, p. 64.)
- *Ex Parte No. MC-92, Investigation of Impact of Rising Costs on Motor Common Carriers.*—On April 4, 1974, an investigation was instituted into the relationship of increases in the cost of fuel to motor common carriers and revenues generated by the fuel-cost surcharges granted by the Commission. On July 8, 1974, the Commission determined that the fuel surcharge authorized by Special Permission No. 74-2525, allowing for increases not to exceed 6 percent to become effective on 1-day's notice: (1) Was designed to be used solely for the recoupment of direct fuel-increased costs; (2) was improperly used by motor common carriers to meet their increased fuel costs and other nonlabor increased expenses; (3) did not result in unreasonable profits to the carriers on a nationwide basis; (4) was no longer necessary in view of the deescalation of the fuel crisis and the more gradual increase in fuel prices; and (5) should be phased out in a manner that would not leave the owner operators with less compensation.

Other activities of national importance in which the Commission engaged as a result of reduced energy supplies included:

- Service on November 23, 1973, of a general policy statement concerning motor carrier licensing procedures. On and after December 1, 1973, applicants for motor carrier operating rights were required to submit evidence in their initial presentations on the operational feasibility of proposed services.
- Filing of a position statement with the Energy Policy Office December 7, 1973, in which the Office was urged to revise upward its proposed mandatory fuel allocation priorities for middle distillate fuels. Subsequent to that filing the allocation priorities originally proposed were twice revised upward.
- Establishment, beginning February 13, 1974, of a toll-free information telephone hotline to provide authoritative guidance to anyone seeking energy information.

- An active role in various Federal efforts which contributed directly to the settlement of the nationwide truckers' protest in early February 1974, when approximately 100,000 people were out of work as a result of the curtailment activities of independent owner operators of motor trucks and others who sympathized with their cause.

REGULATION OF THE CARRIERS INDUSTRIES

Conglomerates and Diversification

Diversification by transportation and nontransportation holding companies was affected by a tight money market and high interest rates. Many holding companies are relatively small. Some are operating carriers controlling two or three other carriers that serve a limited area and companies providing transportation support services. Also represented in transportation are some large conglomerates, such as Pepsico, Inc., Purolator, Inc., International Utilities Corp., and Del Monte Corp. The possibility of diversion of carrier assets for noncarrier purposes requires our constant surveillance because of the threat to the maintenance of sound conditions in transportation.

During the fiscal year two conglomerate proceedings were of special interest. International Utilities Corp., a large multinational enterprise, which owns both Pacific Intermountain Express Co., and Ryder Truck Lines, Inc., sought to expand into the air freight forwarder business through acquisition of control of Airborne Freight Corp.¹ Airborne holds authority from this Commission to provide surface forwarding service incidental to carriage by air in addition to the air freight forwarding authority issued by the Civil Aeronautics Board. This transaction therefore requires the approval of both the CAB and the Commission. The second proceeding² involves Alltrans Holdings, Ltd., a Canadian company, controlled by Thomas Nationwide Transport Ltd., an Australian corporation. The majority of the companies controlled by Thomas are not based in the United States. The transaction involved acquisition of authority which would allow connection with Canadian points. In approving the transaction, the Commission found substantial revenues would be derived by the holding company upon consummation which

¹ Docket No. MC-F-11850, *International Utilities Corporation—Control—Airborne Freight Corporation*, by order of the Commission, decided Nov. 5, 1973, not printed.

² Docket No. MC-F-11908, *Alltrans Holdings (Ontario) Ltd.—Control—Overland Western Ltd., Overland Express, Inc., and Overland Western International, Inc.*, by order of the Commission, decided Dec. 6, 1973, not printed.

warranted inclusion of conditions furthering the Commission's efforts to prevent diversion by conglomerate corporate enterprises of assets and earnings of regulated carriers to unrelated activities.

In a pending proceeding, in docket No. MC-FC-75153, *CLTL, Inc.*, a newly formed noncarrier corporation controlled by International Minerals & Chemical Corp., a producer of a broadly diversified line of mineral products for agriculture and industry, with operations in the United States and numerous other countries, and assets of some \$600 million, seeks to acquire control of Chemical Leaman Tank Lines, Inc., and its subsidiaries. Chemical Leaman is a substantial motor common carrier of bulk products, including petroleum and chemicals.

Securities

During the fiscal year rail and motor carriers filed 174 applications and 23 petitions to issue securities under sections 20a and 214 of the Interstate Commerce Act.

The Commission has continued to be concerned about full disclosure requirements for carriers and the widespread use of financial transactions which traditionally have not been regarded as securities but which can result in carriers incurring substantial debt. Progress was made in processing Ex Parte 275, *Expanded Definition of Term "Securities"*, 344 ICC 114, the *Securities* case, and Ex Parte No. 279, *Securities Regulations—Public Offerings*, 344 ICC 168, the *Public Offerings* case, which were instituted to cope with these problems. The Commission published rules and forms governing disclosure to investors in connection with public offerings of securities under sections 20a or 214 of the act, the *Public Offerings* case. The published forms are designed to elicit substantially the same type of disclosure as would be included in a prospectus for a security subject to the jurisdiction of the Securities and Exchange Commission and to assure that such information will be in the hands of the potential investor at the time of investment. They include a form of general application and a form for employee offerings. Approximately 12 petitions for reconsideration were received relating to the accounting provisions and, to a lesser degree, the exemptions from the prospectus requirements.

By its report and order dated August 16, 1973, in the *Securities* case, the Commission set new standards for interpretation of the term securities within the meaning of Section 20a of the act. This would broaden the term to include loan agreements, credit agreements, mortgages, chattel mortgages, advances from affiliates, deeds of trust, equipment trusts, security agreements, and purchase agreements whose terms pro-

vide for other than full payment at the time of consummation. No specific finding was made as to whether the said term includes agreements entered into for the sole purpose of acquiring motor carrier operating property. We also found that transfer by a carrier of cash or other assets to a corporate affiliate to be unlawful unless and until, the Commission authorizes such transfer. Petitions for reconsideration were filed. The issues involved are very complex and necessitate a balancing of the need to more effectively regulate carrier financing while avoiding rigid standards that could deny carriers reasonable flexibility to operate effectively.

The ability of private financial markets to meet carriers' capital needs deteriorated with tightening of the money supply and the sharp rise in interest rates. On July 6, 1973, the Commission authorized issuance of equipment trust certificates at 7.6 percent interest. On June 10, 1974, it approved similar certificates at 8.8 percent. Money market conditions became so acute that by April 1974, one railroad withdrew its application to issue equipment trust certificates. The importance of such certificates in railroad financing can be seen in the fact that 32 such applications were filed from June 1, 1973, to May 21, 1974. Two small railroads and one major railroad were authorized in the fiscal year to issue stock, the latter being issued to its employees. One major railroad issued bonds publicly which was unusual for a railroad in recent times. Six railroads issued notes in private placements.

As of May 21, 1974, railroads had filed 14 applications for exemption from the requirement of competitive bidding, as compared to 7 applications in the entire previous fiscal year. Cited generally as a basis for such requests was the need to expend considerable effort to educate and negotiate with potential investors on the merits of an issue, and concern that the offering otherwise would fail as less informed investors would shun the issue.

Continued heavy reliance on short term financing to meet carriers' long term needs is an unwelcome development, due largely to the money market. The Commission continues to caution against excessive use of such financing, citing its comment in *Penn Central Transportation Co. Notes*, 366 ICC 1 (1969), that the exhaustion of short-term credit to refinance maturing long-term debt or finance long-term capital expenditures could expose a carrier to a serious crisis in the event of an economic squeeze, at which time a carrier may require short-term financing for traditional use. One application was denied on this basis.

A number of railroads are seeking exemption from the Commission requirements on competitive bidding to assume obligation on securities to be issued by American Rail Box Car Co. The latter was incorporated

in 1974, to serve as an instrumentality through which a nationwide pool of general purpose box cars would be acquired, financed, owned and controlled. An application has been received for approval of the pooling of car service with respect to box cars.

One major holding company of motor carriers had filed an application to assume obligation and liability with respect to securities to be issued by its noncarrier subsidiary in favor of the Bank of Tokyo of California. Evaluation of actions by a holding company pose difficult problems, which may be further complicated if a trend should develop toward obtaining funds from foreign or foreign controlled banks.

In connection with an application filed by Canadian Pacific Ltd. to assume obligation and liability with respect to equipment trust certificates, the Commission held that it will not generally apply the statute to seek extraterritorial application of section 20a, but will apply it to issuance of securities "effected" within the United States to the general investing public. The particular application was dismissed since the issue was in the nature of a private placement and assertion of jurisdiction was not necessary to maintain the integrity of our domestic regulatory scheme.

A decision of the U.S. District Court in 1973, involving a local bus company in the District of Columbia, held that the provisions of section 10 of the Clayton Act, requiring competitive bidding in major security and certain other transactions between a carrier and other companies having common directors, was not applicable to a wholly owned subsidiary of the carrier. In April 1974 certiorari was denied and the case became final. This decision appears to eliminate section 10 problems for carrier transactions with subsidiaries. Since section 10 does not apply to dividends, most assets of carriers transferred to parent noncarrier companies are effected in the form of dividends.

Two important securities cases decided during the fiscal year involved plans of recapitalization. By a September 26, 1973, order in *Chicago and NW Transportation Co. Stock*, 344 ICC 839, C. & N.W. was authorized to issue (a) 4,296,675 shares of class A common stock, par value \$0.83 $\frac{1}{3}$ per share, to its stockholders, pursuant to a plan of reclassification whereby each share of its \$50 par value common stock would be exchanged for 60 shares of the new common stock, and (b) 500,000 shares of its new class A stock which would be sold to employees at \$11 per share. The basic purpose of the reclassification was to broaden employee ownership and to permit present holders to dispose of portions of their ownership if they so desire. In Finance docket No. 27346, *Missouri Pacific R. Co. Securities*, I.C.C., decided December 6, 1973, the Missouri Pacific Railroad Co. was authorized to issue 1,865,702

shares of no par value \$5 cumulative convertible preferred stock, 635,696, shares of no par value common stock, and to reserve and subsequently issue 1,865,702 shares of common stock upon conversion of the said preferred stock, all pursuant to a plan of recapitalization. Under the plan each share of Mo-Pac's class A no par value common stock would be converted into one share of the \$5 cumulative preferred stock with the preferred convertible to common stock within one year of final approval of the transaction by this commission. In addition, Mo-Pac's present no par value class B stock would be converted into 16 shares of the new common stock, plus the right to receive \$850 in cash. Appeals from the Commission's decision are pending in two district courts.

Railroads

During fiscal 1974 class I railroads experienced a revenue growth pattern which closely followed the movements in gross national product (GNP). Just as the economy expanded strongly in the first half of fiscal 1974, as registered by a rapid growth in constant dollar GNP, so did the traffic in commodities transported by class I railroads. The slowdown in the growth of railroad traffic in the second half of fiscal 1974 paralleled the sharp downswing in the growth of constant dollar GNP. Railroads were confronted with a slackening growth in traffic, but revenue growth was maintained at a high rate throughout the year, due to general rate increases authorized in the second and third quarters of the fiscal year. Thus, by July 1, 1974, operating revenues had risen 12.2 percent, from \$14.1 billion to \$15.8 billion in 12 months. Net railway operating income increased 5.8 percent, to \$899 million. Ordinary income increased to \$646 million, a gain of 20.4 percent. Rate of return on net investment in transportation property was 3.32 percent, up from 3.17 percent for fiscal 1973.

Although railroad revenues increased during the year, expenses rose at a slightly faster pace. The high rate of inflation in the economy and the energy crisis contributed to acceleration in fuel expenses, material expenses, and wage costs for class I railroads. Fluctuations in the traffic of various commodity groups transported by class I railroads followed swings in the economy for commodities sensitive to durable goods consumption while some other commodities transported were countercyclical. During the expansionary phase in the first half of the fiscal year, metallic ores, metal products, autos and parts, and piggyback traffic were principal contributors to the revenue growth of railroads. With the economic slowdown in the second half of the fiscal year, movement of autos and lumber declined sharply and the growth in metallic ores and metal products dropped from their previous high rate.

The shipment of export grain reinforced the cyclical swings in the economy. This traffic continued at a high level in the first and second quarters of the fiscal year but declined in the third and fourth quarters due to supply shortages. Coal and piggyback traffic moved in a counter-cyclical fashion due primarily to effects of the energy crisis. While piggyback traffic maintained a high growth rate, coal reversed a previous downward trend, increasing considerably in the second half of the fiscal year.

Because of the dispersion of natural resources, industrial plants, and consumer markets, economic events throughout 1974 affected the railroads in various regions differently. Railroads in the western district experienced the greatest benefits from both the export grain traffic and coal traffic as the growth in revenues, tons, and ton-miles exceeded that of other regions. Although export grain traffic declined in the latter half of the fiscal year, the level of revenues from this traffic was sustained by the compensating effect of a 10-percent rate increase authorized in January 1974. Even though revenue growth of western district railroads remained high throughout the year, the inflationary rise in expenses outpaced revenue growth because of the high level of consumption of fuel and materials by these railroads.

The southern district railroads maintained a favorable control of expenses, registered the steadiest movement of traffic, and retained an operating ratio below that of other districts. The revenue growth of eastern district railroads suffered from a decline in traffic in conjunction with the economic downswing, and their operating ratio remained significantly above that of other districts.

In response to sluggish economic growth, rail traffic volume will be somewhat depressed and revenue growth will be moderate for the near future. The slackened growth of certain cyclically sensitive products will limit revenue growth. A decline in export demand for grain from the previous year coupled with the drop in crop production due to the summer drought will dampen traffic volume and revenue growth. In the short term, the benefits from increased coal traffic will not outweigh the effects of a decline in industrial and agricultural production.

The 10 percent general rate increase granted in June 1974 (see page 31) together with the cumulative impact of previous rate increases beginning in the fourth quarter of 1973 will provide class I railroads with sufficient revenue to compensate for the high rate of inflation which will continue to propel expenses for fuel, materials, and maintenance upward. The operating ratio will probably not improve to any meaningful extent in the near future, but the extent to which increased revenue is allocated to

the revitalization of roadbed and equipment will have a real impact on future control of expenses.

Railroad Debt Structure

The Commission, in connection with a Senate subcommittee investigation, compiled information as to the major holders of debt of the 15 largest railroads.

Bonded indebtedness and equipment obligations comprised about 65 percent of the composite outstanding debt of the 15 largest railroads. About 25 percent of the composite debt was held by banks. The six banks which separately held at least 1 percent of the composite debt, were as follows: (1) First National City Bank of New York, \$462 million or 5.2 percent; (2) First Pennsylvania Bank & Trust Co., \$318.2 million or 3.6 percent; (3) Continental Illinois National Bank & Trust Co., \$157.4 million or 1.8 percent; (4) Harris Trust & Savings, \$141.6 million or 1.6 percent; (5) Girard Trust Bank, \$133.8 or 1.5 percent; and (6) Morgan Guaranty Trust Co., \$89.8 million or 1.0 percent.

Northeastern Railroad Situation

The continuation of rail service in the northeastern quadrant of the country continued to be a major concern. On July 3, 1973, the U.S. District Court for the Eastern District of Pennsylvania directed the trustees of the Penn Central Transportation Co. to file their plan of reorganization with the Commission. Plans also were submitted by the trustee of the New York, New Haven & Hartford Railroad Co. and the Penn Central Co., which owns 100 percent of the debtor's outstanding common stock. The three plans were consolidated for consideration in F.D. No. 26241, *Penn Central Transportation Company Reorganization*, I.C.C.

The plan submitted by the Penn Central trustees was not directed toward reorganization, but was a request for liquidation of the carrier. The trustees were of the view that a traditional income-based reorganization was impossible under prevailing circumstances. The New Haven plan envisaged a large reduction in miles of line operated. The parent Penn Central Co. hinged its plan on elimination of deficit operations through Federal legislative, executive or judicial actions.

The court requested that the Commission certify to it a plan by October 1, 1973, less than 3 months after the Penn Central plan was filed. Inasmuch as all the proposals were not plans of reorganization, the time was inadequate to formulate an acceptable alternative. Realizing the need for continued service to an area of the country containing approximately 55 percent of America's manufacturing capacity and 60 percent of its

manufacturing employees, it was necessary to develop a preliminary plan directed toward formulation of a sound reorganization program.

The plans submitted lacked requisite specificity and were inadequate to meet the mandate of section 77 of the Bankruptcy Act for producing a financially sound, profitable corporate enterprise effectively serving the public. The trustees' plan failed to assure continuation of essential service to the public. The New Haven plan failed to demonstrate the profitability of the proposed new system and the adequacy of that system's service characteristics. Both plans failed adequately to provide for employees. The Penn Central plan hinged on future judicial and legislative actions which, if forthcoming, may take years to achieve. No immediate relief was envisioned by the Penn Central's plan. This resulted in considerable uncertainty.

Since the plans submitted failed to provide the specifics necessary to develop an alternative plan of reorganization, immediate further hearings were ordered. Areas to be considered in the further hearings included: adequate protection of employees, protection of creditors, restructure of Penn Central's debt, and development of an economically viable operation to meet the public's need for service. The need for further public hearings was obviated by enactment of the Regional Rail Reorganization Act of 1973, which provided for the restructuring of rail service in an 18-State area, which included the Penn Central system.

After consideration of numerous recommendations from Federal and State agencies, private interests, and the Commission, Congress enacted the Regional Rail Reorganization Act of 1973 (Public Law 93-236) which embodies a unique and far-reaching program to revive rail service in the troubled northeast and midwest. The act provides for ultimate creation of the Consolidated Rail Corporation (Conrail), a for-profit common carrier by railroad. The rail properties of Conrail will be obtained by transfer to it from railroads in the region, both those in reorganization and profitable railroads, in exchange for stock and other securities of Conrail. It is anticipated that the transfer and commencement of operations by Conrail will occur during the summer of 1975.

In the interim, planning of the new rail system for the region will be under the auspices of two additional bodies created by the act, the Commission's Rail Services Planning Office (RSPO) and the United States Railway Association (USRA).

The RSPO has a statutory life of 5 years, with an appropriation of \$3.4 million for the period January 2, 1974, through June 30, 1975. The act required the Secretary of Transportation to submit his conclusions and recommendations for rail service in the 18-State area. RSPO's first task was to study and evaluate the Secretary's report, "Rail Service in

the Midwest and Northeast Region", issued February 1, 1974. The office held public hearings and employed a staff to protect the interests of communities and users of rail service, which might not otherwise be adequately represented, in the course of the hearings and evaluations. Thirty-two public hearings were held at points in the northeast and midwest, with some 3,500 witnesses testifying, producing over 25,000 pages of transcript and thousands of written statements. On May 2, 1974, the office transmitted its "Evaluation of the Secretary of Transportation's Rail Services Report" to the U.S. Railway Association. Under terms of the Regional Rail Reorganization Act, USRA is responsible for preparing the preliminary system plan and a final plan to be submitted to Congress in early 1975.

RSPO's evaluation contained 11 principal recommendations and findings that the Secretary's report had not provided the Association with a valid statistical basis for approaching the plan of a unified rail system for a substantial part of the country, a system which the Congress directed should be designed to meet a variety of social as well as economic goals.

The Act required the Rail Services Planning Office to:

* * * within 180 days after the date of enactment of this Act, determine and publish standards for determining the revenue attributable to the rail properties, the avoidable costs of providing service, and a reasonable return on the value, as those phrases are used in section 304 of this Act, after a proceeding in accordance with the provisions of section 553 of title 5, United States Code * * *

This was accomplished in Ex Parte No. 293 (Sub-No. 2), *Standards for Determining Rail Service Continuation Subsidies*. Over 350 comments were filed in response to a Notice of Proposed Rulemaking and Order which appeared on February 25. More than 40 came as a result of the supplemental notice published May 31. The standards which will appear as 49 CFR 1125, were published in the Federal Register, July 1, 1974.

The USRA plan will designate the properties of railroads in reorganization to be transferred to Conrail or offered to Amtrak. To arrive at a final system plan, USRA can conduct or contract for studies and analyses to improve its insight into problems and needs in the region. USRA also will receive public input from hearings conducted by RSPO.

The act provides for a special court with sole powers of review over the final system plan. It will have to consider the reasonableness of compensation offered by Conrail for rail properties to be transferred to it and to order the conveyance of such properties. The Commission is

required to submit an evaluation of the final system plan to Congress prior to its approval or disapproval.

Several parties, including creditors of the Penn Central and the New Haven trustee, have entered challenges to the constitutionality of the Regional Rail Reorganization Act of 1973 in district court. Those challenges were consolidated before a three-judge court. On June 29, 1974, the court enjoined (1) the certification of a final system plan to the special court pursuant to section 209(c) of that act, (2) the enforcement of section 304(f) with respect to any abandonment, cessation or reduction of service which has been or may hereafter be determined by a court of competent jurisdiction to be necessary for the preservation of constitutional rights, and (3) enforcement of any action implementing section 207(b) to the extent that it purports to require dismissal of pending proceedings for reorganization under section 77 of the Bankruptcy Act.

The court also entered a declaratory judgment declaring that (1) section 303 of the Regional Rail Reorganization Act is null and void under the Fifth Amendment as it fails to provide compensation for interim erosion pending implementation of the final system plan, (2) section 304(f) is also in contravention of the Fifth Amendment and thus null and void to the extent that it requires continued operation of rail services at a loss in violation of constitutional rights of railroad owners and creditors, and (3) that portion of section 207(b) which requires reorganization courts to dismiss pending proceedings under section 77 of the Bankruptcy Act is null and void as violative of article I, section 8, clause 4 of the Constitution. An appeal from these determinations is pending.

Of the bankrupt railroads within the region on the date of enactment, the Boston & Maine and the Erie Lackawanna have been found by their respective bankruptcy court judges to be reorganizable on an income basis within a reasonable time and will thus not be recognized under the act.

Reorganizations

At the beginning of the fiscal year there were 12 rail carriers seeking reorganization under section 77 of the Bankruptcy Act. These railroads operate an area extending between Chicago, St. Louis, and the northeast, serving most principal points in the area.

In July 1973, 15 Penn Central subsidiaries went into reorganization: Beech Creek Railroad Co.; The Cleveland, Cincinnati, Chicago & St. Louis Railway Co.; The Cleveland & Pittsburgh Railroad Co.; The Connecting Railway Co.; The Delaware Railroad Co.; Erie & Pittsburgh Railroad Co.; The Michigan Central Railroad Co.; The Northern Central Railway Co.; Pennel Co.; The Philadelphia & Trenton Railroad

Co.; The Philadelphia, Baltimore & Washington Railroad Co.; Pittsburgh, Fort Wayne & Chicago Railway Co.; The Pittsburgh, Youngstown & Ashtabula Railway Co.; Union Railroad Co. of Baltimore; and United New Jersey Railroad & Canal Co. On October 15, 1973, the Ann Arbor Railroad Co., also a Penn Central subsidiary, went into reorganization under section 77.

The Regional Rail Reorganization Act of 1973 offered hope of resolving some of the rail problems in the northeast (see page 16). Certain railroads indicated they did not wish to participate in the reorganization, including the Erie Lackawanna Railway Co. and the Boston & Maine Corp.

Petitions filed under section 77 of the Bankruptcy Act have increased sharply. During the fiscal year, 86 petitions were filed to fix maximum limits of compensation of trustees and counsel for debtor railroads, as compared to 60 petitions for the previous year. Petitions relating to the New York, New Haven & Hartford Railroad Co. alone totaled 21. Petitions relating to the Erie Lackawanna Railway Co. totaled 14.

The large number of petitions for fixing maximum compensation representing many railroads and law firms are complex and require careful scrutiny. It is expected that such petitions will increase considerably, due in part to the increased number of small railroads which have gone into reorganization in the past year, and to the recent development of petitions being filed for compensation under section 77(c)(12) of the Bankruptcy Act. Section 77(c)(2) provides for the setting of maximum compensation for trustees and counsel. This traditionally has been done on an interim basis as a reorganization progresses. However, section 77(c)(12) provides for setting the maximum limit of compensation for parties of interest, reorganization managers, and committees, or other representatives of creditors and stockholders. Traditionally the latter claims were not submitted until the plan of reorganization was approved. In the last fiscal year, however, certain indenture trustees and their counsel sought interim compensation for services rendered. The Commission found this to be proper under section 77(c)(12) of the Bankruptcy Act.

The Commission sought to maintain trustee and counsel compensation at reasonable levels, taking into consideration, among other things, the need to attract able personnel, the financial condition of the debtors, and the benefit to the estate of services rendered. The Commission set maximum compensation of an attorney of Boston & Maine Corp. for the period October 10, 1969, to April 10, 1973 at \$627,017.90, which represented services on a contingent basis that resulted in the railroad receiving a final award of \$14,038,896 in excess of the amount originally

offered for certain properties purchased under option by the Massachusetts Bay Transportation Authority.

In numerous other instances the Commission has reduced the compensation of trustees and counsel, in an effort to maintain moderate compensation. The inflationary pressures now existing are very likely to result in an increased level of compensation demands.

Other reorganization petitions involved ratification of court-appointed trustees and approval of protective committees. In the past year new trustees were appointed for the Penn Central Transportation Co., the Boston & Maine Corp., the Reading Co., and various smaller railroads that went into reorganization.

A plan of reorganization was approved by an administrative law judge for Cadillac & Lake City Railway Co., and the Commission approved a plan of reorganization of the New Hope & Ivyland Railroad Co., 347 ICC 13.

Labor Problems

The question of what constitutes common carrier operations by railroad was presented in *United Transportation Union v. Bessemer and Lake Erie Railroad Company and Pittsburgh and Conneaut Dock Co.*, 342 ICC 849. The Pittsburgh & Conneaut Dock Co. is an affiliate of the Bessemer & Lake Erie Railroad Co., a common carrier. Dock operations on Lake Erie are conducted primarily over lines leased from the railroad. The United Transportation Union complained that the dock company is a common carrier and its members are entitled to protection afforded employees under section 5(2) of the act. The dock company claimed it functioned merely in the capacity of a stevedore and such operations are not subject to our regulation.

The issue was not what the dock company called itself, or its relationship to an admitted common carrier, but rather, what it did. The dock company held itself out to perform various transportation services including switching, loading and unloading, and storage and transport of goods moving in interstate commerce. These activities constitute common carriage and the Pittsburgh & Conneaut was found to be a rail carrier subject to Commission regulation. The operations of the leased track were not merely switch operations, and were not exempt from the need for Commission approval. Services performed over the leased track constituted a continuation of a through movement in interstate or foreign commerce. The leasing of lines from its affiliate, therefore, required Commission authorization.

In *Norfolk and W. Ry. Co. and New York, C. and St. L. R Co. Merger*, 324 ICC 1, 330 ICC 780, 331 ICC 22, and ICC , trustees of the

Erie-Lackawanna Railroad Co. (E-L) sought to suspend payments made under terms of an employee protective agreement. It was executed by the parties and approved by the Commission as a condition of the inclusion of the E-L into the Norfolk and Western System (N. & W.). The agreement incorporated the same protection afforded by the original N. & W. merger agreement, that no railroad employee be placed in any worse position with respect to compensation, rules, working conditions, or fringe benefits, during their employment after inclusion.

The trustees asserted that the agreement was premised upon the adverse effects which employees might experience by reason of the inclusion or any resulting efficiencies. They believed termination of the N. & W. control resulting from the reorganization proceeding and the elimination of the benefits contemplated by the inclusion, removed any basis upon which to continue the benefits provided under the protective and related implementing agreements. The thrust of labor's response was to challenge the authority of the Commission to suspend provisions of the protective agreement.

While the Commission found the jurisdiction to reopen the proceeding to reconsider any aspect of an order issued under section 5(2)(f) to reflect changed circumstances, it held the record failed to provide any basis upon which the trustees petition could be granted. The Commission concluded that imposition of labor conditions in proceedings under section 5(2) of the act are mandated pursuant to the provisions of section 5(2)(f). Having once approved a transaction and imposed the required labor conditions upon a finding of consistency with the public interest, and the transaction is consummated on that basis, the parties must be bound by their acts unless a showing of substantial error has been made. The trustees' arguments were based on changed circumstances not resulting from findings made at the time of approving the transaction under section 5(2), but as a result of extraneous circumstances. Therefore, a substitution of new conditions, suspension of conditions, or elimination of conditions would be contrary to the clear mandate in section 5(c), unless a showing of substantial detriment to the public interest were shown.

Construction and Operation

During the fiscal year the Commission received several applications for new rail construction and for new rail corporations to acquire lines previously sought to be abandoned by Class I railroads.

The Great Plains Railway Co.,³ a corporation formed by shippers

³ F.D. 27275, *Great Plains Railway Company—Acquisition and Operation, Between Seward and Superior, in Seward, York, Fillmore, Thayer and Nuckolls Counties, Nebraska*; served Nov. 1, 1973 (not printed).

and managed by a specialized short line railroad management company, was authorized to acquire an 85-mile line between Seward and Superior, Nebr. The line had been abandoned by the Chicago & North Western Transportation Co.

The Commission authorized the St. Johnsbury & Lamoille County Railroad⁴ to abandon its entire line of railroad between St. Johnsbury and Swanton, Vt., subject to the immediate acquisition and institution of operations over the abandoned tracks by the Lamoille County Railroad, Inc., and Vermont Transportation Authority.

Authority was granted to Scenic Railways, Inc.,⁵ under section 5(2) of the act to lease and operate for a period of 20 years the operating authority and related equipment and facilities of the Colorado and New Mexico Railroad Authorities, doing business as the Cambres & Toltec Scenic Railroad, between Antonito, Colo., and Chama, N. Mex., a distance of 64 miles. The narrow gauge line of railroad, previously abandoned, was acquired by the State authorities in 1969 from the Denver & Rio Grande Western Railroad. The line is to be operated as a scenic, recreational, and tourist railroad. At the time of the grant, Scenic also was operating the Tahoe, Trout Creek & Pacific Railroad, another short line rail carrier, in California.

Historic Railroads, Inc.,⁶ was authorized to acquire a line of the Baltimore & Eastern Railroad Co. in Maryland from a point east of Berlin, to West Ocean City, a distance of some 6 miles. Existing freight operations would be maintained and a short line summer-season train service would be initiated.

The Louisiana Midland Railway Co. was authorized to acquire a 68-mile line between Packton and Concordia Junction, La.⁷ and to continue certain trackage right operations between Concordia Junction and Vidalis, La., over the lines of the Missouri Pacific Railroad Co. The evidence indicated that the applicant proposes to provide line-haul and switching services to and from industries and logging operations along the line and, if warranted, to act as a bridge carrier and institute express, mail and less-carload freight service.

⁴ AB-65, *St. Johnsbury & Lamoille County Railroad—Entire Line Abandonment—between St. Johnsbury and Swanton, Caledonia, Washington, Lamoille and Franklin Counties, Vermont*, served Oct. 15, 1973 (not printed).

⁵ F.D. 27359, *Scenic Railways, Inc.—Operation—Between Antonito Colorado, and Chama, New Mexico*, served Jan. 18, 1974 (not printed).

⁶ F.D. 26820, *Historic Railroads, Inc. Acquisition and Operation—Between Queens-town and Denton, in Caroline and Queen Annes Counties, Maryland*, served Feb. 6, 1974 (not printed).

⁷ F.D. 27450, *Louisiana Midland Railway Company—Acquisition and Operation—Between Concordia Junction and Packton, Grant, LaSalle, Catahoula and Concordia Counties, Louisiana*, served Mar. 27, 1974 (not printed).

Missouri Pacific Railroad Co. was authorized to construct and operate 0.43 mile line which extended from its existing line to the facilities of Armco Steel Corp. at Houston, Tex.⁸ In approving the application the Commission found the shipper's need for more dependable, inbound service on shipments of raw materials for its plant outweighed possible diversion of traffic from protesting parties.

Burlington Northern and the Chicago & North Western Railroad have applied for authority to construct a line in Converse and Campbell Counties, Wyo., to serve facilities engaged in strip mining of coal in F.D. No. 27579. Previous applications involving similar operations were filed by (a) Burlington Northern under F.D. Nos. 27208 and 27212, between Douglas and Gillette, Wyo., some 126 miles, and between the Westmoreland Resources Mine, and Hysham, Mont., a distance of 36 miles, and (b) by the Chicago & North Western, under F.D. No. 27392, from Fisher, Wyo., to a point some 76 miles north and in the same general area of Burlington Northern's proposed 126-mile track.

On December 10, 1973, in F.D. No. 27543, the Georgia Southern & Florida Railway Co. filed an application to construct a 5-mile line in Duval County, Fla. The purpose of the construction is to serve a proposed industrial park in a new area approximately 10 miles west of the central business district of Jacksonville, Fla. A draft environmental impact statement has been issued, and comments have been received.

In another proceeding under section 1(18) of the act the Graham County Railroad Co. was authorized to resume operations over a 12.5-mile line between Topton Junction and Robbinsville, N.C. Abandonment of operations over the said line of railroad had been granted.⁹

Abandonments

Although excess capacity in the form of unused or little used track and facilities continues to constitute a major problem in the rail industry, applications seeking authority to abandon trackage declined nearly 50 percent this fiscal year. Some 140 applications seeking authority to abandon 2,251 miles of trackage were filed, compared to 266 applications to abandon 4,436 miles in fiscal 1973. This substantial reduction was mainly attributable to the *Harlem Valley*¹⁰ decision and, to a lesser extent, to certain provisions of the *Regional Rail Reorganization Act* (Public Law 93-236) enacted January 2, 1974.

⁸ F.D. 27115, *Missouri Pacific Railroad Company—Construction and Operation—Houston, Harris County, Texas*, served May 10, 1974 (not printed).

⁹ F.D. No. 26237, *Graham County Railroad Co.—Entire Line Abandonment—Between Robbinsville and Topton, N.C.*, served Sept. 16, 1970 (not printed).

¹⁰ *Harlem Valley v. Stafford*, 5 ERC 1503 (S.D.N.Y. 1973).

On July 6, 1973, the U.S. District Court for the Southern District of New York ordered the Commission (a) To determine and state publicly at the outset of all abandonment proceedings whether major Federal actions significantly affecting the quality of the human environment are involved within the meaning of 42 U.S.C. § 4332(2)(c), and if so, (b) to require staff preparation of a draft impact statement for circulation to the parties prior to commencement of any hearing and further action in the agency process as the statute requires. Subsequently, the decision was appealed by the Commission. In the interim, all hearings and the issuance of initial or final decisions in abandonment proceeding generally were postponed until the procedural problems of the court's decision were resolved. By a June 18, 1974 order, the U.S. Court of Appeals, Second Circuit, upheld the district court's order. As a result only a few abandonment decisions were issued in the past fiscal year.

Meanwhile, the Commission augmented its staff through the employment of persons trained in environmental matters, and contracted with the Mitre Corp. to aid in formulating procedures comporting with the National Environmental Policy Act, and the many and far reaching court decisions. Considering that there is a backlog of some 350 abandonment proceedings on which action has been deferred, because of the *Harlem Valley* case, and the expected influx of new applications utilizing new procedures permitting the processing of applications, it is evident the next fiscal year will be a very active one in the disposition of abandonments.

The new procedures established by the Commission require that, before an abandonment application is set for hearing or disposition under modified procedure or on an uncontested basis, a threshold assessment of the environmental effect will be prepared by the Commission and published on the basis of an *ex parte* reviewable record. If a negative conclusion is reached, an order will be entered stating that, based upon the staff-prepared threshold assessment, the proceeding is one in which no environmental impact statement need be prepared. Notice to this effect would be published in the Federal Register and by railroad applicant in local newspapers. This would afford interested persons the opportunity to file comments on the threshold assessment. If no comments are received within 15 days, the proceeding would be set for hearing or modified procedure. If comments are received, they would be evaluated by the environmental staff and considered by the Commission. The Commission would then enter an order (1) affirming or amplifying the prior determination and referring the proceeding for further disposition, or (2) concluding that an environmental impact statement was required, vacating the prior order, and referring the matter to the environmental staff for further

evaluation and preparation of draft impact statement. Pursuant to the *Harlem Valley* judgment, the draft environmental impact statement must be served and comments solicited in advance of hearings on the merits of the application. The initial decision of the administrative law judge would contain a final environmental impact statement, and comments thereon would be considered by the Commission, as it would review the exceptions and replies on other aspects of the initial decision.

Section 304 of the Regional Rail Reorganization Act of 1973 provides that no railroad in reorganization may abandon any line of railroad, other than pursuant to provisions of the act, unless (1) authorized by the United States Railway Association, and (2) no affected State or local or regional transportation authority reasonably opposes such action. After the rail system to be operated by the Consolidated Rail Corporation (Conrail) under the final system plan has been in operation for 2 years, the Commission may authorize the corporation to abandon any rail properties not required by the public convenience and necessity. The Commission may, at any time after the effective date of the final system plan, authorize additional rail service in the region or authorize the abandonment of rail properties which are not being operated by Conrail or by any other person. On June 25, 1974, a special three judge court found that certain portions of the Rail Reorganization Act was unconstitutional, including the portion deferring the processing of abandonment applications by the affected rail carriers pending the formation of Conrail. An appeal from that decision is pending.

The new regulations adopted by the Commission in Ex Parte No. 274 (Sub-No. 1), *Abandonment of Railroad Lines*, ICC upheld as valid by the courts, and referred to in more detail in our last annual report, establishes procedures that may be followed in submission by rail carriers of abandonment applications. Although the regular long-form application will continue to be used, particularly in complex, difficult and highly contested abandonment proceedings, the new regulations provide two simplified options that can be used. They should help in expediting decisions in abandonment cases. One of the options is a short form for use where little or no public objection exists and the other option is where the line in question fails to produce more than 34 carloads of traffic per mile a year. A rebuttable presumption is established in the latter option that the line in question no longer is required and public convenience and necessity would not be adversely affected by its abandonment. Use of these options will be beneficial, but the new environmental requirements that must be considered in all proposed abandonments will tax the entire staff of the Commission engaged in handling, processing, and

disposition of abandonment applications. The time lag between the filing and the disposition of such applications undoubtedly will increase.

Mergers, Unifications, and Purchases

As discussed in last year's annual report, the administrative law judge released his third and final volume of his initial decision in the Rock Island case.¹¹ The proceeding involves conflicting applications by two different groups: the Union Pacific and the Southern Pacific and the Chicago & North Western and the Santa Fe. Both groups are seeking to acquire and divide the Rock Island, a strategically located but financially weak rail carrier in the midwest. The administrative law judge recommended approval of the Union Pacific-Southern Pacific applications, but would require the sale of important Rock Island trackage to the Santa Fe. He also proposed far-reaching conditions which would restructure rail operations in the western half of the Nation into four rail systems.

Because of the complexity of the proceeding, the Commission permitted an extension of the usual 30-day period for the filing of exceptions to the initial decision to mid-August 1973. Oral argument was held before the Commission in November 1973, on the issues raised in the exceptions and replies.

Negotiations between the Chicago, Milwaukee, St. Paul & Pacific Railroad Co. and Burlington Northern, Inc., which were prompted by the Milwaukee Road's petition of March 9, 1973, seeking reopening of and inclusion in the *Northern Lines* merger authorized by the Commission in 1967,¹² were terminated in June 1974. No final determination has been made on the petition.

The Commission during the year approved a number of rail unifications warranted by the public interest. These included F.D. No. 27078, *Southern Railway Company—Control—Carolina & Northwestern Railway—Merger—Norfolk Southern Railway Company* (not printed), decided November 20, 1973; F.D. No. 27313, *Southern Railway Com-*

¹¹ F.D. No. 22688, *Chicago & North Western Railway Company—Control—Chicago, Rock Island and Pacific Railroad Company*, which includes various securities applications, F.D. No. 23285, *Union Pacific Railroad Company—Control—Chicago, Rock Island and Pacific Railroad Company*; F.D. No. 23286, *Union Pacific Railroad Company and Chicago, Rock Island and Pacific Railroad Company, Merger*, involving a merger of the two previously named carriers; F.D. No. 23595, *Southern Pacific Company—Purchase (Portion)—Chicago, Rock Island and Pacific Railroad Company*; and other related proceedings.

¹² By order of Nov. 30, 1967, in *Great Northern Pac.—Merger—Great Northern*, 328 ICC 460 and 331 ICC 228, the merger of the Great Northern Railway Co., the Northern Pacific Railway Co., the Pacific Coast R.R. Co., and the Chicago, Burlington & Quincy Railroad Co. into the Great Northern Pacific & Burlington Lines, Inc. was approved and authorized.

pany—*Purchase and Operations—Tennessee Railroad Company* (not printed), decided June 22, 1973; F.D. No. 27489, *Illinois Central Gulf Railroad Company—Control—Peoria and Pekin Union Railway Company* (not printed), decided December 19, 1973; and F.D. No. 27542, *Southern Railway Company—Control—Algers, Winslow & Western Railway Company* (not printed), March 1, 1974.

Additional applications seeking approval of rail unifications in several forms and involving a variety of issues including preservation of rights of minority shareholders and maintenance of service to the shipping public, were under consideration by the Commission. Among the pending proceedings were F.D. No. 27620, *Maine Central Railroad Company v. Amoskeag Company*, which is a complaint proceeding directly related to F.D. No. 27621, *Amoskeag Company—Control—Maine Central Railroad Company*, F.D. No. 27469, *Atchison, Topeka & Santa Fe Railway Company—Merger—Illinois Northern Railway*; and F.D. No. 27575, *Fort Dodge, Des Moines & Southern Railway—Purchase of Assets—Des Moines Western Railway Company*.

Perhaps the most significant rail unification presently under consideration by the Commission, as well as by other bodies, is the reorganization of the entire rail system in the northeast and midwest portions of the country. This is discussed under the heading "Regional Rail Reorganization Act of 1973" (see page 15).

Passenger Service

Discontinuances.—Under section 404(a) of the Rail Passenger Service Act of 1970 a rail carrier that has not entered into a contract with the National Railroad Passenger Corporation (Amtrak) may not discontinue any intercity passenger service prior to January 1, 1975. It then may discontinue service under provisions of section 13a of the Interstate Commerce Act, with Amtrak then being afforded the opportunity to provide the discontinued passenger service.

Amtrak was required to continue the basic passenger train system service until July 1, 1974 (July 1, 1973, prior to amendment). Subsequently, if it determines that continuance of a train is not required by the public convenience and necessity, or that it will impair Amtrak's ability to adequately provide other service, it may be discontinued under provisions of section 13a of the Interstate Commerce Act. Amtrak must continue a train if the State, regional, or local agencies affected by the discontinuance request a continuation and agree to reimburse Amtrak for a reasonable portion of the losses associated with continuation of the particular passenger service.

In the past fiscal year, three applications were filed by Amtrak to discontinue passenger train service: (1) the National Limited between New York, N.Y., Washington, D.C., and Kansas City, Mo.; (2) the Floridan, between Chicago, Ill., St. Petersburg and Miami, Fla.; and (3) two trains operating between Norfolk, Newport News, and Richmond, Va. The discontinuances generally were to become effective in August 1973. A number of objections to the discontinuances were received, however, and prior to the effective date, Amtrak withdrew the applications.

The Commission continues to have jurisdiction to entertain section 13a discontinuance petitions for commuter and other short-haul service in metropolitan and suburban areas. The statute creating Amtrak distinguishes between intercity and commuter trains and excludes commuter and other short-haul operations from Amtrak's responsibility. The intercity-commuter train interpretation is complex and an important jurisdictional factor in train discontinuance proceedings. In this regard, decisions were rendered in several pending proceedings, including *Kennedy v. Baltimore & Ohio R. Co.*, 342 ICC 19 (1972), and 342 ICC 778 (1973), referred to in our prior annual report and dismissed for lack of jurisdiction on the basis that the trains involved were intercity in nature.

In *People of the State of Illinois v. Chicago & North Western Transportation Co.*, the U.S. District Court for the Northern District of Illinois referred to the Commission the issue of whether certain Chicago & North Western passenger operations between Chicago, Ill., and Milwaukee, Wis. (a distance of 84 miles), were "intercity" or within the "commuter or other short-haul" exemption of the Amtrak Act. Using the criteria enumerated in *Penn Central Transp. Co. Discon. Or Change in Serv.*, 338 ICC 318 (1971), we found all operations to be intercity in nature. Although the involved service had characteristics of both commuter and intercity service, a substantial majority of the riders were not regular patrons, reduced fare or commutation tickets were not available, and the train schedules were not within the usual hours of employment. Thus, they were not conducive to use by a substantial portion of the public traveling to or from work. Additionally, the average distance between stops for the involved trains was 10.9 miles compared to an average distance of 2.2 miles for commuter trains of the same carrier operating over the same route.

In F.D. No. 27345, *the Chicago, Milwaukee, St. Paul and Pacific Railroad Discontinuance*, decided September 7, 1973 (not printed), discontinuance approval was sought for four weekend and two weekday trains between Fox Lake, Ill., and Walworth, Wis. The trains operated as

part of a through service between Chicago and Walworth, a distance of 74 miles. Noting that these were the last passenger trains serving Walworth and they provided the most expeditious service to Chicago, we required continued operation of the two weekday trains for 1 year. Patronage on the Saturday and Sunday trains was negligible (ranging from four to nine passengers per trip), and the Commission found their continued operation was not required. We noted that savings resulting from elimination of the uneconomical weekend runs would enhance the financial picture with respect to the weekday service. In view of continued operation of the weekday service, it was concluded that no significant environmental effect would result.

In F.D. Nos. 27218 and 27222, the Penn Central Transportation Co. sought to discontinue four commuter passenger trains between Boston and Framingham, Mass., and two commuter trains between Boston and Worcester. The initial decision of an administrative law judge found the trains were a deficit operation, adequate alternate transportation service was available, and continued operation would unjustly burden Penn Central's interstate operations and interstate commerce. The proceeding was held open and jurisdiction retained, pending completion, within a reasonable time period, of subsidy negotiations between Penn Central and Massachusetts authorities.

Service standards.—The Commission's monitoring of Amtrak is a major workload. On time performances, cleanliness of facilities, and proper functioning of equipment are checked and reports of our findings are directed to Amtrak.

Under section 801 of the Rail Passenger Service Act of 1970 the Commission, December 7, 1973, in *Adequacy of Intercity Passenger Service*, 344 ICC 758, prescribed regulations governing the adequacy of intercity passenger service. The rules set standards of quality for all intercity passenger trains, other than "commuter" or "short-haul" trains. The regulations cover reservations, performance, equipment and services in stations and trains, and complaint procedure, enforcement and penalties. They require the establishment of a 24-hour nationwide system for information and reservations, set rules for holding space, and prescribe remedies for reservation errors that inconvenience travelers. They establish criteria for monitoring on-time performance, prohibit cancellation of individual runs, and provide remedies for missed connections. The standards require adequate equipment to meet public need, mandate cleanliness in trains and describe the amenities needed in terminals. Procedures were instituted by which travelers can air grievances to the carrier and to the Commission, and obtain settlement through administrative or court action.

On March 27, 1974, the Commission modified the reservation requirement so as to diminish the percentage of "no-shows" (346 ICC 75). This was prompted by limited train equipment which was taxed to capacity during the "energy" crisis. The modifications will permit higher load factor, and should reduce the number of travelers refused passage on trains due to lack of space.

The Amtrak Improvement Act of 1973 (Public Law 93-146) authorizes Amtrak to take steps to assure that no elderly or handicapped person is denied intercity travel, and to take specific steps to establish improved reservation and ticketing. Other provisions require the Commission to consider quality of service as a major factor in determining the amount of compensation to be paid railroads in excess of incremental costs. In addition, if the rail carrier and Amtrak are unable to agree upon terms and conditions for the acquisition by Amtrak of certain rail properties of the involved rail carrier, then Amtrak may apply to the Commission for an order establishing its need for the property, ordering its conveyance, and establishing terms and conditions. A further amendment required Amtrak to initiate at least one new experimental route per year.

Auto-Train.—On March 11, 1974, the Auto-Train Corp. was authorized to operate a rail passenger automobile transport service between Louisville, Ky., and Sanford, Fla.¹³ In a directly related application under F.D. No. 27525, authority was granted for Seaboard Coast Line Railroad (SCL) and its wholly owned subsidiary, the Louisville & Nashville Railroad Co. (L. & N.), to operate the rolling stock of Auto-Train between the points indicated. Auto-Train was granted trackage rights authority over certain tracks of SCL and L. & N. The application initially was opposed by Amtrak but the objection was withdrawn under an agreement with Auto-Train not to object to a proposed auto ferry service contemplated by Amtrak between Indianapolis, Ind., and Poinciana, Fla.

Division of Revenue

Progress in resolving the dispute between northern and southern lines over divisions of revenue of joint through rates on traffic moving between official and southern territories¹⁴ has been slowed by action of the parties. Traffic studies crucial to resolution of the issue have been suspended by the northern lines, which petitioned the Commission to permit an indefinite postponement of the studies pending outcome of the re-

¹³ *Auto-Train Operation Between Louisville & Sanford*, 347 ICC 261.

¹⁴ Docket No. 35585, *Akron, Canton & Youngstown Railroad Co., et al. v. Aberdeen and Rockfish Railroad Co., et al.*

organization of bankrupt carriers under the Regional Rail Reorganization Act of 1973. The Commission, through its pre-hearing conference procedures, expended considerable effort and time to expedite these proceedings. However, at the end of the fiscal year, the future of the divisions cases was uncertain.

Rates

Rail carrier efforts to meet the rising cost of doing business were reflected in the Commission's rate docket. General and specific rate increase proposals were filed to meet a broad range of carrier revenue needs. The Commission responded to these needs by providing rate relief where appropriate. Conditions were attached to authorized increases in order to assure provision of safe and adequate service to the shipping public.

At issue in *Increased Freight Rates and Charges, 1973, Nationwide*¹⁵ were proposed increases of 5 percent, with the exception of 3 percent in eastern territory. Commodities transported for recycling were excluded from the proposal and there were other exceptions and lesser increases proposed on some commodities. The Commission found the railroads were in need of additional revenues to enable them to provide adequate and efficient service in the public interest. A 3-percent increase was authorized upon a finding that the carriers had failed to justify a higher increase in western and southern territories, thereby disrupting port, commodity and territorial relationships. The Commission noted that under the carriers' proposal the eastern lines, most in need of additional revenues, would have received the least.

A separate investigation was instituted into proposed increases on recyclable commodities,¹⁶ which were suspended for the statutory 7-month period. At the close of the fiscal year, hearings had been held and a draft environmental impact statement had been prepared and circulated to interested parties.

A second proposal of 5 percent was presented in *Increased Freight Rates & Charges—1974—Nationwide*.¹⁷ Although it was suspended by the Commission, an interim increase of 4 percent subject to refunds was authorized, except on recyclable commodities.

A third general increase, *Nationwide Increase of Ten Percent in Freight Rates and Charges, 1974*,¹⁸ also was suspended by the Commission, but the carriers were given an alternative of refiling under certain conditions. Carrier claims that additional revenues were needed for capital projects

¹⁵ Ex Parte No. 295, 344 ICC 589.

¹⁶ Ex Parte No. 295 (Sub-No. 1).

¹⁷ Ex Parte No. 303.

¹⁸ Ex Parte No. 305.

and the correction of deferred maintenance was translated by Commission order into firm requirements to use the increase for capital improvements, deferred maintenance, and higher material and supply costs, other than fuel. No increase was authorized on recyclable materials. Two appeals from the Commission order are pending.

The Commission established a special procedure for carriers to recover amounts expended for the increased cost of fuel.¹⁹ The procedure permitted timely updating of a separate fuel surcharge in amounts justified by current fuel costs.

Other specialized general rate relief was provided in proceedings under new statutory authority contained in the Railroad Rate Adjustment Act of 1973. This new law, section 15(a)(4) of the Interstate Commerce Act, established procedures for considering rate increase requests to offset increased levels of railroad retirement taxes. In proceedings under this section interim increases approximating the amount needed to offset retirement tax increases were authorized,²⁰ and hearings were held to determine final rate adjustments. In addition, the validity of various State Commission denials of like increases in intrastate rates was considered under this law.

A proposed 10-percent increase in rates on grain, grain products, soybeans, vegetable cake and meal, and related commodities moving for export was permitted to go into effect without investigation, subject to a 1-year expiration date.²¹ However, a proposal to increase charges for mechanical protective services by substantial margins was suspended and set for investigation.²²

Intrastate rates.—The Commission investigated intrastate rates in Louisiana and prescribed increases to remove the discrimination and burden on interstate commerce.²³ A petition for investigation of intrastate rates on pulpwood and woodchips in numerous Southern States was denied.²⁴ The carriers were seeking to increase the intrastate rates to levels which had been proposed but had not become effective for interstate traffic. It was found that no undue burden could exist in the absence of

¹⁹ Special permission No. 74-1825.

²⁰ Ex Parte No. 299, *Increases in Freight Rates and Charges to Offset Retirement Tax Increases*—1973.

²¹ Ex Parte No. 302, *Increases in Export Rates on Grain, Grain Products & Related Commodities*.

²² Ex Parte No. 300, *Increases in Charges for Mechanical Protective Service*, 1973, ICC .

²³ *Louisiana Intrastate Freight Rates and Charges*—1972, ICC

²⁴ *Intrastate Freight Rates and Charges—Pulpwood and Woodchips Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee, Virginia*, 344 ICC 108.

discrimination. An existing disparity favoring intrastate traffic, which is required to establish discrimination, did not exist.

Ex Parte 270 and 271.—The Commission's investigations of the railroad freight rate structure, railroad service, and railroad rate base and rate of return have been set on a positive course. The appointment of an individual Commissioner as coordinator of the investigations has resulted in rationalizing and expediting these complex proceedings. The coordinator's first report in *Ex Parte 270*²⁵ discussed the status of the investigation and determined the nature of further investigations. Sub-numbered proceedings were established to study the rate structures of coal, iron ores, scrap iron and steel, lumber and lumber products, and paper and paper products. The subjects of railroad freight service and the uneven effects of general increases on individual railroads were set for separate consideration. The coordinator's report on the progress of *Ex Parte 271*²⁶ was issued February 7, 1974, and a procedural schedule for submission of written statements was established.

A proposal was adopted to arrange the major commodities shipped by rail into 126 commodity groups. The adoption of this proposal, advanced by the special projects counsel with cooperation of the parties, provides a workable frame of reference for consideration of the millions of freight rates on file with the Commission. The initial phase of the coal investigation is nearly completed. Statements have been submitted by the parties and it is anticipated that a coordinator's report will be issued before the end of the year. A draft environmental impact statement was developed for the iron ores and scrap iron and steel investigations and a final environmental impact statement will be served prior to the established dates for the submission of written statements.

In summary, substantial progress has been achieved in what has been described as the most comprehensive and thorough investigation of railroad rate matters ever undertaken by the Commission.

Complaints.—Formal complaints filed by shippers and carriers are often the basis for decisions of general policy significance. An adjustment in the rates charged on shipments of soybeans for export from Illinois origins to Chicago was ordered when the rates were found unduly prejudicial to Chicago and unduly preferential of the gulf ports.²⁷ An appeal from the Commission's decision is pending. Shippers of scrap iron successfully assailed charges for the use of special gondola cars in switching

²⁵ 345 ICC 1.

²⁶ 345 ICC 55.

²⁷ *Board of Trade of the City of Chicago v. Illinois Central Railroad Company, et al.* 346 ICC 818.

service.²⁸ It was found that failure of the carriers to include a carrier convenience rule in the switching charge tariff was an unreasonable practice, unjustly discriminatory, and unduly preferential. Publication of a carrier convenience rule was required to assure that scrap shippers would not be forced into paying for the use of cars different from those ordered.

Finally, in an action brought by water carriers serving the Great Lakes, it was found that carload rates on coal from various Ohio mines to Lake Erie ports were not unreasonably high and the rail carrier refusal to establish unit-train rates to those ports was not a destructive competitive practice or a violation of other provisions of the Interstate Commerce Act.²⁹ This proceeding is presently pending in court.

Freight Car Service

The 1974 fiscal year began with the Class I railroad industry experiencing daily freight car shortages of some 29,000 units. The deficits peaked at over 44,000 revenue cars in early February 1974, but then were reduced to well under 20,000 by the end of the fiscal year. While the car shortage was an expected result of the shrinking size of the car fleet and the expanding demand for cars, some progress was being made. Despite a reduction of 8,535 cars from the total of 1,401,661 on hand July 1, 1973, average carrying capacity rose to 71 tons per car during the year. The net result was a national increase of 650,000 tons carrying capacity by the end of June 1974. Over a 10-year period the loss of nearly 100,000 units was offset by a gain in carrying capacity of 12 tons per car, or a total of over 11 million tons. On January 1, 1974, the 1,395,105 units available had an aggregate carrying capacity approaching 1 billion tons. The average capacity for installations during fiscal 1974 was 84 tons per car, compared with 64 tons per car retired.

Nearly balancing the 1974 decrease in revenue cars of Class I carriers was the 323,829 car increase posted by private car ownership, railroad controlled refrigerator cars and cars owned by Class II lines and switching and terminal companies. In line with recent past experience, ownership of cars shifted from general to special purpose cars.

Freight car retirements in 1974 included 12,282 plain boxcars, 16,964 general service open top hopper cars and 5,880 plain gondolas. Acquisitions included 9,579 covered hoppers, mostly high capacity types designed to move heavy volumes of grain and other dry bulk commodities, and 4,083 equipped boxcars for specialized loadings.

²⁸ *Institute of Scrap Iron & Steel, Inc., et al. v. Aberdeen and Rockfish Railroad Company, et al.* 346 ICC 296.

²⁹ *Lake Carriers' Association v. New York Central R. Co.*, 343 ICC 491.

The usual contributing factors that lead to freight car shortages were joined by two special demands this year: the after effects of the 1972 sale of 83 million tons of grain to the Soviet Union and the fuel shortage during the 1973-74 winter. The grain sale was followed by a nearly catastrophic sequence of events. Freight car buildups occurred at port facilities as they received more grain than they could handle. Interior points reported massive car shortages for domestic traffic as exports continued in high gear.

Rail transportation, particularly to Gulf Ports, began to feel the strain as badly needed equipment backed up as far away as Kansas City. Port congestion became so great it was necessary to embargo certain ports, permitting movements only to specific elevators which had current inventories. Most port elevators on the Gulf and in the Pacific Northwest were embargoed at various times during the year due to car accumulation and excessive delays. Fortunately, the export commitment had been completed by the end of the fiscal year.

Unit trains used in the movement of grain intensified to the point where it became necessary to limit the number of covered hopper cars which could be used in this service, and Service Order 1120 was issued. It prohibited railroads from assigning more than 25 percent of their covered hopper fleet to grain shipments in unit trains. This was a protective measure to insure an equitable supply of empties to both large and small shippers alike.

An additional measure to ease the acute car shortages for grain loading was the issuance of Service Order 1117, which set aside tariff provisions requiring exclusive use of boxcars or covered hopper cars for movement of certain grain traffic. It also permitted substitution of open top hopper cars, while Service Order 1182 authorized similar use of stock cars. Despite the difficulties experienced, the fact that the railroad industry handled the unanticipated export grain load is a testament to what has to be recognized as one of the most successful logistical mass movements in modern history. It was accomplished despite the serious fuel shortage that developed in the fall of 1973.

Conversion of electric power plants from residual oil to coal became necessary. Conversion, however, increased the demand for coal cars and eventually strained an already tight supply of open top hopper cars. Beginning about the middle of January and continuing through mid-April, average daily shortages ranged from a low of 2,000 cars to a high of over 7,000 cars. Shortages continued through the rest of the year at an average rate of about 6,100 daily. Because coal traffic was primarily destined to points served by roads other than the originating carrier, equipment was frequently appropriated by carriers other than the owning

line. Revised Service Order 1043 and Service Order 1171 required the empty return of open top hopper cars to the owning lines which significantly increased the car supply in the coal loading areas.

To protect the country's food supply and assure an orderly movement of perishable commodities from the growing areas to markets, two orders were issued for utilization of refrigerator equipment. Service Order 1173 restricted the loading of mechanical refrigerator cars to perishable commodities. Service Order 1185 required heavier loading than that provided by tariff, thereby increasing the utilization of available equipment.

Under authority of Revised Service Order 994, the Commission issued 26 rerouting orders authorizing railroads, unable to transport traffic in accordance with shippers' routing because of bridge or track damage, work stoppage, floods or high water conditions, to reroute or divert such traffic over any available route to expedite its movement.

Because of excessive holding of carloads of lumber at numerous authorized hold and diversion points, Service Order 1134 was issued. This order provided that cars held in excess of 7 days were no longer considered through shipments, entitled to the lower through rates from point of origin to final destination, but rather, subject to higher local rates to and from the hold point. The order became subject to court action in the U.S. District Court in Portland, Oreg., and a restraining order was granted. The court decision has been appealed by the Commission.

Service Order 1112 required rail carriers to expedite the handling of freight cars by prompt placement, removal, forwarding and light repair of cars. It further provided for assessment of storage charges on each car assigned to a specified shipper, and held excessively for prospective loading, and prohibited railroads from releasing cars from unloading points prior to the removal of all materials connected with the inbound shipment. Additionally, Service Order 1170 obligated railroads to handle privately owned empty freight cars in a manner similar to the provisions of Service Order 1112.

Other service orders were issued in an effort to encourage expeditious loading and unloading practices at port facilities and domestic locations. Service Order 1121 reduced free time on freight cars held at port facilities and increased detention charges to a higher level than those in published tariffs. Service Order 1124 contained similar provisions on cars in domestic service, and Service Order 1119 required detention charges to include Saturdays, Sundays, and holidays on empty cars placed for loading and then not used.

Service orders relevant to specific car types and geographic locations were issued to ease various car supply conditions. The acute shortage of

cars in March prompted the Commission to issue Service Order 1178, directing 11 grain carrying railroads to deliver 100 covered hopper cars each to the Seaboard Coast Line. This decision became necessary when it appeared that there were not enough cars available to service needed fertilizer shipments from Florida to grain producing States to meet spring planting requirements. Through this kind of action, further assurance of maximum farm production was enhanced.

While service orders were utilized in emergencies to counteract imbalances in the car supply system, broader actions were necessary for long range regulation. In a far reaching decision,³⁰ the Commission in continuing an investigation of the deterioration of the Nation's freight car fleet ordered individual railroads to show cause why they should not be required to acquire specific numbers of freight cars.

In two related proceedings, the Commission determined that privately owned cars, except among coal mines, need not be counted against shippers in the allocation of railroad-owned equipment during times of car shortage;³¹ and that railroad-owned and privately owned cars used to transport bituminous coal in unit trains must be counted as part of the pool of cars available for allocation on a pro rata basis during car shortages.³² The former decision should result in incentives to invest in privately owned freight cars which would make additional railroad-owned cars available to the shipping public. The latter decision also expressed the Commission's intention to recommend an amendment to the act to exempt privately owned cars used in unit-train coal movements from the requirements of section 1(12) of the act.

Contrasting with the trend toward fewer general service freight cars were carriers' programs for purchase of motive power. Class I railroads increased their locomotive ownership from 27,211 on July 1, 1973, to 27,528 on May 1, 1974, or an increase of 317 units. Aggregate horsepower increased from 55,276,970 to 57,176,394, or an increase of 1,899,424 horsepower. New engines put into service exert an average horsepower of more than 2,250 per unit, compared with an average of 1,720 horsepower for those units retired. As of May 1, 1974, Class I railroads had 512 diesel locomotives on order, including 276 multipurpose, 201 freight and 35 switch units. Additionally, there were 165 rebuilt units on order, including 135 multipurpose, 25 switch and 5 freight type units.

³⁰ Ex Parte No. 241, *Investigation of Adequacy of Railroad Freight Car Ownership, Car Utilization, Distribution, Rules and Practices*, ICC .

³¹ *In Re Distribution, Except Among Coal Mines, Of Privately Owned Freight Cars in Times of Car Shortages*, 346 ICC 278.

³² *Assigned Cars for Bituminous Coal Mines*, 346 ICC 327.

Motor Carriers—Property

Operating revenues and revenue tons for regulated trucking firms were higher this year but operating ratios rose and net income and rate of return were lower.

Motor carriers were among the many industries experiencing adverse effects from fuel shortages. Higher fuel prices and lower speed limits helped precipitate curtailment of highway traffic by owner-operators in February 1974. The Commission took a number of steps to keep traffic moving (see page 5) and by the last quarter of the fiscal year operating revenues and net income were advancing, even though there was a slight decline in revenue tons hauled. For the year as a whole, 94 large motor carriers reported:

- Revenues increased about \$1 billion from \$8.2 to \$9.3 billion, a gain of 12.8 percent for the large motor carriers. Revenue tons shipped rose 3.5 percent, from 180.2 to 186.4 million tons.
- Net income declined \$5.6 million, from \$261.5 to \$255.8 million.
- Operating ratio increased from 93.5 to 94.6 percent. Rate of return on shareholders' equity declined to 13.70 from 15.55 percent.
- Of the 94 large carriers, 85 reported increased revenues, but only 46 showed improvement in net income.
- Thirteen of the 94 carriers reported net losses for the 12 months ending June 30, 1974.

As a result of increasing labor costs, nine major motor rate bureaus filed increases to become effective shortly after the end of the fiscal year. The outlook for the industry will depend upon the general condition of the economy and the rate of price increases for fuel, tires, and equipment.

The Commission, in connection with a Senate subcommittee investigation, compiled information as to the major holders of debt of the 10 largest motor carriers. Four banks and two insurance companies hold more than 53 percent of the outstanding debt of the 10 largest motor carriers; the remainder of the motor carrier debt is represented primarily by advances payable to affiliated companies. The six large institutional holders and the amount and percentage of total debt owned are as follows: (1) First National Bank of Boston, \$27.9 million, 15.5 percent; (2) First National City Bank of New York, \$27.5 million, 15.2 percent; (3) Bank of America, \$19 million, 10.5 percent; (4) First National Bank of Chicago, \$13.8 million, 7.6 percent; (5) New York Life Insurance Co., \$6.9 million, 3.8 percent; and (6) Massachusetts Mutual Life Insurance Co., \$1.6 million, 0.9 percent.

Bankruptcies

The Commission was requested to comment on reorganization plans submitted under chapter X of the Bankruptcy Act with respect to G. G. Parsons Trucking Co., Topeka Motor Freight, Inc., Hennis Freight Lines, Inc., and Bonney Motor Express, Inc. The Commission gave the courts the financial analysis of plans prepared by the Commission's staff. Each submission was qualified to indicate that the staff views would not affect subsequent applications to issue securities or transfer operating rights. These would have to be considered on their merits based on information then submitted.

Mergers, Unifications, and Purchases

The Commission approved creation of an unusually large motor carrier system in which United-Buckingham Freight Lines, Inc. (Buckingham) would be taken over by Ringsby Truck Lines, Inc. (Ringsby).³³ This carrier would have assets in excess of over \$40 million. Ringsby's service area would expand to include many more points in the Northwest quadrant of the country, thereby facilitating its service between the Pacific Northwest and major cities eastward such as Denver and Chicago. Ringsby would also get new authority to serve such major midwestern cities as Cleveland and Detroit. This case was also noteworthy because of an unusually large Commission award to dissenting minority shareholders, worth over \$650,000 to the involved shareholders of Buckingham. Buckingham and a subsidiary were allowed to sell a portion of their properties to Transcon Lines.³⁴ The consideration was in excess of \$6 million, a sum deemed essential for the financial viability of the surviving carrier. Transcon Lines' purchase of the involved properties would permit new regular-route service by this transcontinental carrier in 10 additional States.

We approach consolidation proceedings on a flexible case-by-case basis, recognizing that the broad standards of the governing statute were intended to provide us with sufficient latitude to deal with the specific and varying problems of each transaction. One problem often encountered was whether a seller had actively operated in the past and proposed to sell a viable operation needed by the public. We recently found that a substantial part of the rights proposed to be sold had not been used, and the

³³ No. MC-F-10502, *Ringsby Truck Lines—Control—United-Buckingham*, 116 M.C.C. 588.

³⁴ No. MC-F-11411, *Transcon Lines—Purchase (Portion)—United Buckingham Freight Lines, Inc.*, embraced in 116 M.C.C. 588.

application was denied to that extent.³⁵ In other cases, however, the Commission took a less strict approach to the problem of past usage because household goods transportation, a highly specialized and limited service, was involved.³⁶

Other cases involved the problem of a possible "split" of operating rights, retention by the seller or its corporate parent of duplicating operating rights sold to the buyer. In one case, this problem led to denial of the proposed sale.³⁷ In another proceeding, however, a seller was allowed to transfer certain rights duplicating those retained. Approval, however, was conditioned upon restricting the retained rights against most service possible under the sold rights.³⁸

Another problem frequently encountered is the financial viability of the buyer. One solution is to require prior consummation of a related transaction, thus bringing in needed funds.³⁹ Another is to require capital contributions from a wealthy corporate parent.⁴⁰ The chosen solution is intended to insure a financially viable operation able to serve the public's needs.

In other proceedings, the Commission had to deal with the problem of legal violations and what remedies were appropriate. For example, one case involved an individual who unlawfully acquired control of a second carrier. The Commission ordered a less strict remedy, i.e., surrender of the inactive first carrier's certificated authority, since the law violation was inadvertent and done under good-faith advice of counsel.⁴¹

Pooling.—Carriers have continued to display an interest in engaging in pooling operations. The shortage of petroleum products for necessary operations makes it mandatory that carriers reduce costs wherever possible and that adequate service to the public be maintained. This can be done through the pooling of services, revenues, or traffic. The large multi-State carriers encounter difficulty in rendering a complete service on small

³⁵ No. MC-F-11380, *Overnite Transp. Co.—Purchase—Tidwater Express*, 116 M.C.C. 539.

³⁶ No. MC-F-10196, *Overnite Transp. Co.—Purchase—Alabama Highway Express*, 116 M.C.C. 527, and No. MC-F-11137, *Kings Van & Storage, Inc.—Purchase (Portion)—Noble Van & Storage, Inc.*, M.C.C., decided Oct. 12, 1973.

³⁷ No. MC-F-11169, *International Cartage—Purchase (Portion)—Mohawk Motor*, 116 M.C.C. 477, decided Aug. 15, 1973.

³⁸ See *Transcon Lines*, *supra*.

³⁹ *Ringsby Truck Lines*, *supra*.

⁴⁰ No. MC-F-11714, *Rocor International—Control—Crouch Brothers* (not printed), decided Nov. 13, 1973, which also presented the question of a noncarrier controlling a freight forwarder seeking to acquire a motor carrier contrary to sec. 411(a)(1) of the act, and resulting in an initial denial.

⁴¹ No. MC-F-11449, *Wofsy, Air-Freight, and AFT Investigation of Control*, 116 M.C.C. 466 (1973).

shipments and at the smaller points, and, as a result, they are continuing to enter into new agreements or joining existing pools to reduce operating costs and improve service. The Commission held that arrangements are beneficial to the public, providing faster service on long-haul runs and more reliable pickup and delivery service on small shipments. The Commission generally has approved the pooling agreements subject to a condition permitting other carriers to join the pool arrangement. For example, in docket No. MC-F-11490, *Consolidated Freightways Corporation of Delaware—Pooling—Silver Wheels Freight Lines, Inc.* (not printed), decided December 17, 1973. Garrett Freight Lines, Inc., was authorized to join a pooling arrangement upon the same terms approved between Consolidated Freightways Corp. and Silver Wheels Freight Lines. In another proceeding, docket No. MC-F-11022, by order dated May 13, 1974, Santa Fe Trail Transportation Co., was authorized to join a pool arrangement with Pacific Intermountain Express, Inc., Consolidated Freightways Corp. of Delaware, Eastern Express, and Graves Truck Line, Inc., upon the same terms previously approved by an order served June 7, 1971. Generally, the number of local pickup and delivery carriers engaging in the pool arrangements are restricted because of the limited volume of traffic involved.

Two complicated pooling proceedings, involving pooling to a number of points, but also involving the question of revocation of operating authority for failure to provide a complete service to all authorized points are pending before the Commission.⁴²

Safety

A motor carrier's fitness to operate is related to its compliance with safety regulations of the Federal Highway Administration, Department of Transportation (FHWA). During the year, the Commission investigated operations of Eagle Motor Lines, Inc. and its failure to comply with Motor Carrier Safety Regulations.⁴³ FHWA contended that Eagle had committed numerous and varied violations.

The administrative law judge concluded the proved violations were not the result of flagrant and persistent disregard of the applicable safety regulations, but of loose supervision over vehicle inspections and drivers.

⁴² No. MC-C-6767, *Pacific Intermountain Express Co.—Investigation and Revocation of Certificates*, embracing No. MC-F-10942, *Pacific Intermountain Express Co.—Pooling—Bee Line Motor Freight, Inc., et al.*, and No. MC-C-6745, *T.I.M.E.-DC, Inc.—Investigation and Revocation of Certificates*, embracing No. MC-F-11772, *T.I.M.E.-DC, Inc., Et Al.—Pooling—Oklahoma, et al.*

⁴³ No. MC-C-7795, *Eagle Motor Lines, Inc., Invest. & Revoc. of Certif.* (not printed) decided, Apr. 9, 1973.

He decided that no revocation or suspension of Eagle's present authorities was warranted and ordered issuance of Eagle's certificates in proceedings held open pending determination of the fitness issue. The certificates were limited to 3-year terms to insure Eagle's future compliance with the safety regulations. No exceptions were filed, and the recommended order became effective.

Household Goods

The Commission's consumer interest program is at its most active in the day-to-day assistance that helps resolve problems arising from movement of household goods. The assistance was manifested in the form of increased protection for the public through tightening of rules for carriers, enforcement action against some of the largest household goods carriers in the country, and broadening of the program and additions to the staff to provide consumers with immediate assistance when problems develop in the movement of their household goods.

In continuance of a policy established during the 1972 fiscal year, the coordination and general oversight of the Commission's activities in the household goods area remained the immediate responsibility of an individual Commissioner.

Regulations adopted this year will provide expanded protection to the consumer in his transactions with household goods carriers.⁴⁴ Effective June 7, 1974, the rules require that each prospective shipper be furnished a revised edition of the "Summary of Information for Shippers of Household Goods," Form BOp-103. It contains a questionnaire by which the shipper can advise the Commission whether the move was satisfactory or not and to what extent the carrier complied with the agency's consumer protection rules. These regulations also require that each shipper be furnished a copy of Public Advisory No. 4, "Lost or Damaged Household Goods Prevention and Recovery." Effective February 15, 1975, it will require household goods carriers to furnish shippers a summary of their service record for the previous calendar year. This will enable the shipper to objectively evaluate the past performance of each carrier in his selection of a particular carrier to transport his shipment.

Regulations promulgated during fiscal year 1972, relating to reservation of vehicle space by shippers, were modified. Originally they prohibited carriers from selling services predicated upon reservation by the shipper of a minimum amount of vehicle space. As a result of an industry

⁴⁴ Ex Parte No. MC-19 (Sub-No. 19), *Practices of Motor Common Carriers of Household Goods (Consumer Protection)*, 119 M.C.C. 585.

initiated appeal to the courts, the proceeding was reopened for further consideration and the regulations were amended to allow continuation of certain space reservation practices for shipments consisting of the furniture, fixtures, equipment, and the property of stores, offices, museums, institutions, or hospitals, and objects of art, displays, and exhibits, which require the specialized handling and equipment usually employed in moving household goods. Prohibited by the amended regulations was the selling of service predicated upon the reservation of space for those shipments consisting of personal effects and property used or to be used in a dwelling when a part of the equipment or supply of such dwelling.⁴⁵

As the result of an earlier rulemaking proceeding, the Commission again recommended to Congress that it be given authority and sufficient funds to adjudicate loss and damage claims.⁴⁶

To further assist consumers utilizing the services of household goods carriers, the Commission had under consideration regulations to protect consumer-claimants from unreasonable practices intended to improperly limit the liability of carriers for loss and damage. In this same proceeding the adoption of regulations requiring carriers to use uniform shipping documents also was under consideration.⁴⁷

The Commission concluded an investigative proceeding, instituted during fiscal year 1973, involving a major carrier which had been the subject of a substantial number of shipper complaints. The carrier's authority was suspended in part for 15 days. The carrier was ordered to amend its operating policies and practices to assure discontinuance of the violations.⁴⁸

Public hearings were conducted in proceedings instituted during fiscal 1973 involving two other major household goods carriers. The initial decisions of the administrative law judges were pending before the Commission at the end of the fiscal year.⁴⁹

Substantial criminal penalties and civil forfeitures were assessed against other households goods carriers for violations of the regulations directed toward protection of the consumer-shipper.

⁴⁵ Ex Parte No. MC-19 (Sub-No. 15), *Practices of Motor Common Carriers of Household Goods (Reservation of Vehicle Space by Shippers)*. 119 M.C.C. 733.

⁴⁶ Senate bill S. 2250 and House bill H.R. 8326.

⁴⁷ Ex Parte No. MC-19 (Sub-No. 20), *Practices of Motor Common Carriers of Household Goods (Limits of Liability)*.

⁴⁸ Docket No. MC-C-7915—*Atlas Van Lines, Inc.—Investigation and Revocation of Certificates*.

⁴⁹ Docket No. MC-C-7874, *United Van Lines, Inc.—Investigation and Revocation of Certificates* and Docket No MC-C7901, *North American Van Lines, Inc.—Investigation and Revocation of Certificates*.

Five additional transportation consumer specialists were trained and assigned to key offices to assist consumers at all stages of the household goods moving transaction. The five new employees and the four transportation consumer specialists employed during 1973 handled over 400 consumer complaints monthly. They also conducted compliance surveys of carriers and agents and participated in investigations of violations disclosed by the complaints and surveys.

Rates

Motor carriers of property were early victims of the fuel crisis. Operations were interrupted by labor unrest tied to the lack of compensation to owner operators for their increased fuels costs. The Commission fashioned a remedy designed to generate sufficient revenues to meet these costs and conditioned the granting of a fuel surcharge on certification that the revenues would be passed through to those actually responsible for the payment of fuel charges.⁵⁰ In addition, an investigation was instituted to study the impact of rising costs on the motor carrier industry.⁵¹ By these actions, the Commission restored a measure of stability to the industry (see page 5) and collected data to serve as a basis for future action.

Prevention of unreasonable rates and practices and unjust discrimination are among the primary goals of the Interstate Commerce Act. The Commission's concern with effectuating these goals is reflected in a proceeding exploring the possibility of establishing uniform detention rules on a nationwide basis,⁵² which were prescribed for application in a number of Eastern States. During the past year the Commission reaffirmed its belief in the efficacy of those rules and prescribed exact charges for the detention of motor vehicles.⁵³ In a related proceeding, carrier schedules which permitted the payment of detention charges by persons other than parties to the contract of carriage were found unlawful and ordered cancelled.⁵⁴

Two proceedings were instituted to consider changes in the Commission's motor carrier credit regulations. The period within which the carrier must present its freight charges to the shipper was extended from 7

⁵⁰ Special Permission No. 74-2525.

⁵¹ Ex Parte No. MC-92, *Investigation of Impact of Rising Costs on Motor Common Carriers*, ICC

⁵² *Detention of Motor Vehicles, Nationwide*.

⁵³ *Detention of Motor Vehicles—Middle Atlantic and New England Territory*, 344 ICC 333.

⁵⁴ *Responsibility for Payment of Detention Charges in Various Motor Carrier Regions*, 344 ICC 292.

to 15 days on shipments of oilfield equipment.⁵⁵ An extension of the 7-day free credit period on shipments of household goods was required by new Commission regulations. The extension to 30 calendar days is subject to the assessment of a 1 percent service charge, minimum \$10, for the additional period of credit.⁵⁶

In prescribing the service charge for the extension of credit, the Commission rejected the suggestions of several large shippers, among others, that the prior 7-day free credit period could be extended to at least 30 days. It noted that the c.o.d. shipper (the ordinary householder to whom the carriers do not normally extend credit) would be unduly prejudiced to the benefit of the large national accounts. To determine the effectiveness of the new credit regulations, the Commission required the carriers to file reports. The new regulation has become effective although the decision has been appealed.

A regulation was adopted to require motor common carriers of household goods to maintain the same rates and charges for the transportation of household goods between the same points in the same direction regardless of whether the carriage is in single-line or joint-line service.⁵⁷

Operating Rights

In *Peoples Cartage, Inc., Postal Com. Car. Applic.*, 119 M.C.C. 24, the entire Commission had its first occasion to review an application for a postal certificate and to clarify procedures which had been adopted to implement Public Law 91-375.⁵⁸ Under these procedures postal certificates were made available on two general bases: (1) If an applicant held contracts to serve the Postal Service of the United States or its predecessor, the U.S. Post Office Department, on or before July 1, 1971, it was entitled to grandfather operating rights coextensive with the operations authorized by contract, provided copies of the contracts are filed at the Commission; and (2) an applicant which was not a contractor of mail on July 1, 1971, may obtain common carrier operating rights to transport mail by undertaking the usual application procedures of section 207 of the Interstate Commerce Act, requiring evidence of a need for service and of the applicants fitness.

⁵⁵ *Payment of Rates and Charges of Oilfield Carriers Credit Regulations—Oilfield Carriers*, 118 MCC 379.

⁵⁶ *Payment of Rates and Charges of Motor Carriers Credit Regulations—Household Goods*, 118 MCC 778.

⁵⁷ *Practices of Motor Common Carriers of Household Goods (Participation in Rates at Different Levels)*, 118 MCC 762.

⁵⁸ *Ex Parte No. MC-86, Implementation of Public Law 91-375*, 113 MCC 14 (1971).

Transportation of mail by carriers under postal contract is currently exempt from Commission regulation. Public Law 91-375, as implemented by 113 M.C.C. 14, enables a carrier operating under contract on July 1, 1971, to obtain certification so that contract truckers might compete on an equal footing as regulated carriers in the event the Postal Service turns exclusively to ICC regulated carriers.

The report further interprets Public Law 91-375 and implements the existing procedures by noting that to qualify as support for grandfather applications the contracts must have been in effect on or before July 1, 1971, must have continued (through extensions or otherwise) without interruption, and must currently be viable. As to nongrandfather certification, the Commission observed that the provision in (2) above, embraces all applications, not only of persons who were not contractors on the effective date, but also persons qualifying for grandfather certification but seeking to expand, after the July 1, 1971 date, the territorial extent of their star route mail carrier operations, and persons not qualifying for grandfather operating rights due to interruption, discontinuation or lack of present viability of such contracts which were in effect on or before July 1, 1971.

Household goods.—In denying an application for motor common carrier authority to transport used household goods, we found protestants had appropriate Kingpak motor authority to serve the supporting freight forwarder.⁵⁹ We held that the effects of Department of Defense regulation 4500.34R, upon the freight forwarder were beyond the sphere of issues properly considered by the Commission in determining public convenience and necessity. Notwithstanding that the regulation limits a local carrier to serving only one regulated freight forwarder in handling containerized household goods shipments for the account of the Department of Defense, and each protestant already represented one regulated freight forwarder on DOD traffic, the DOD regulation will not be allowed to bind the Commission as to the need for authorizing additional services.

Contract carriers.—The Commission considered a number of situations involving contract-carrier applicants' claim of specialization on proposed services, as well as the number of persons they may serve in meeting qualifications of section 203(a)(15).

In considering an applicant's proposal to serve a sixth shipper while its president, as an individual, served three shippers, we found that such proposal did not meet contract carriage criteria.⁶⁰ The total number of shippers to be served by contract carrier affiliates must be considered in determining whether the proposed operation will enable a carrier to

⁵⁹ *Air Van Lines Ext.—Seven Washington Counties*, 119 M.C.C. 423.

⁶⁰ *Genova Transport, Inc., Ext.—Plastic Articles*, 118 M.C.C. 160.

serve more than a limited number of persons. This is determined by: (a) Number of existing and proposed permits and shippers, (b) types of commodities transported, (c) similarity of service proposed with that which the carrier already performs, (d) scope of territory, (e) degree of specialization required by nature of the business of the shippers, and (f) historical manner in which a carrier's business has developed.

An applicant was originally denied authority to operate as a contract carrier transporting such commodities as are dealt in by retail department stores (except foodstuffs) from a number of eastern points to points generally located in the Midwest. The denial was based in part on the fact that it held authority to serve eight shippers. Grant of the authority sought would result in the applicant no longer serving a limited number of persons.⁶¹

On reconsideration, we took cognizance of the fact that following issuance of the initial order, a number of the applicant's permits had been cancelled, transferred or converted, and that a grant of the proposed authority would then enable it to serve only four shippers. It was concluded that cancellation, transfer and conversion are allowable methods of reducing the number of shippers served by a carrier in order to enable it to retain its status as a contract carrier.

We issued a decision⁶² involving a contract carrier holding a so-called "open-ended" permit issued prior to 1957. The permit did not limit the carrier to serving specified persons under contracts as do most recently issued permits. It was not converted to a certificate under section 212(c) of the act in a proceeding initiated within 180 days after the redefinition of contract carriage under section 203(a)(15) of the act in 1957. We found the carrier must comply with the present definition of contract carriage under section 203(a)(15), which specifies a contract carrier must operate under contracts with "one person or a limited number of persons"; and that a contract carrier seeking conversion of such a permit must do so under section 207 of the act. It was determined that the carrier's failure to operate within the express limitations of its permit, and as a bona fide contract carrier in light of the 1957 amendments, prohibited finding the applicant fit and willing to conform to Commission regulation. We denied the conversion application.

Restrictions.—The Commission generally prefers unrestricted grants of authority, but the public interest requires the imposition of restrictions in certain instances. In particular situations, the interpretive problems which arise readily point to the basis of the Commission's general policy.

⁶¹ *Nationwide Carriers, Inc., Ext.—Secaucus, N.J.*, 119 M.C.C. 51.

⁶² *Signal Transport, Inc., Com. Car. Applic.*, 119 M.C.C. 1.

We considered ⁶³ the problem of an allegedly ineffective restriction after the U.S. District Court for the Middle District of Florida, Tampa Division, reversed earlier orders of the Commission. The court concluded due process of law and fairness required further consideration of a protestant's petition to reopen, and the petition raised issues of fact which the Commission should determine. The protestant attacked the permit on the grounds that the applicant and the shipper misled him into withdrawing opposition by limiting the proposed operations against service to St. Augustine. The protestant claimed the intended purpose of the amendment was defeated as the shipper's plant was not located at St. Augustine, but near that point. The court noted that nothing it said should be construed as an intimation that such petition should be granted, or, if it were granted, that the permit issued should be modified. On further hearing we found no error occurred in the grant of the application and the protestant failed to show fraud, misrepresentation, or any other basis for modification of the permit that was issued.

In an application proceeding ⁶⁴ for motor authority to transport animal and poultry feed, animal and poultry feed ingredients, and animal and poultry health aids, the evidence showed that one-third of all shipments tendered would be mixed loads of health aids and feed and feed ingredients. We chose to protect a protestant by imposing a mixed-load restriction upon the grant of authority, requiring that "each truckload transported by the carrier must contain both types of commodities." Following the policy set forth in *Barsh Truck Lines, Inc., Extension—Bartow, Fla.*, 92 M.C.C. 254 (1963), no arbitrary percentage limits were imposed. We required only that a reasonable volume of each commodity must be in each vehicle at the same time.

Foreign commerce.—The Commission found ⁶⁵ that interchange of equipment at Calgary, Alberta, Canada, between two motor common carriers of household goods on movements between points in the continental United States and Alaska should not be prohibited merely because it cannot authorize such operations in their entirety. The Commission's regulations governing lease and interchange of vehicles (49 CFR 1057) were found not to prohibit such interchange operations.

Temporary authority.—The Contract Carrier Conference of American Trucking Associations, Inc., sought modification of criteria utilized in processing contract-carrier applications for temporary authority. The proposed modifications would have simplified the filing and notice requirements for contract carriers seeking temporary authority. It would

⁶³ *Lawton, Inc., Extension—Foodstuffs*, 118 M.C.C. 882.

⁶⁴ *C. B. Transportation, Inc., Ext.—Worthington, Minn.*, 118 M.C.C. 247.

⁶⁵ *Foreign Interchange Operations*, 119 M.C.C. 302.

have permitted automatic extensions of service by contract carriers under existing contracts or to displace a service not subject to part II of the Interstate Commerce Act (e.g., private carriage).

The involved proposal⁶⁶ was rejected because: (1) It would require the Commission to avoid its statutory responsibility to determine the existence of a prerequisite immediate and urgent need and the nonexistence of carriers capable of satisfying the needs of the shipper or shippers; (2) the petitioner failed to demonstrate there was an immediate and urgent need for the services of all contract carrier applicants for the types of temporary authority which were the subject of its petition; (3) existing services must be accorded a reasonable trial before a new service can be authorized even temporarily; (4) the proposal inherently discriminated against the common carrier despite the fact that the test for the grant of authority does not differentiate between the two classes of carriers; and (5) present regulations are sufficiently flexible to meet any immediate and actual emergencies.

The Commission amended⁶⁷ its regulations to achieve impartial and realistic regulation and better state and federal cooperation in state registration of interstate motor carrier temporary authorities.

Motor Carriers—Passenger

Despite the fuel crisis, intercity bus operations remained generally strong through the 1974 fiscal year. The industry benefitted from the shift by the public from private automobile use to carrier surface transportation during the energy crisis.

A comparison of the performance of the nine largest class I motor carriers of passengers for fiscal 1974 operating revenues rose 9.2 percent to \$722 million. Net income declined, however, 6.7 percent to \$44.9 million. Rate of return on shareholders' equity declined from 14.86 to 13.31 percent.

Although inflation poses a continuing threat to net earnings, the economic prospects for the intercity bus industry for the coming year appear good.

The Commission issued its third report in its investigation of procedures of motor passenger carriers regarding declaration of excess valuation on checked baggage and reasonableness of the \$50 limitation on recovery for lost or damaged baggage in the absence of a declaration of excess value. Modifications in the regulations previously promulgated were proposed, and it was tentatively determined that motor carriers of

⁶⁶ *Motor Carrier Temporary Authority*, 118 M.C.C. 444.

⁶⁷ *State Registration of Temporary Authorities*, 119 M.C.C. 327.

passengers should be required to maintain a free baggage allowance limitation of no less than \$250 per adult ticket.⁶⁸

The transportation of commuters in contract carriage between Philadelphia, Pa., and apartments in Camden County, N.J., was supported by the managements of the individual apartment buildings who were found to be proper contracting parties in such a situation. The apartment managements desired to terminate free bus service which had formerly been provided to their tenants. The proposed regularly scheduled operations could not properly be conducted under the applicant's existing common carrier authority to conduct charter operations. It was concluded that a grant of the contract carrier authority sought was appropriate and would not divert any significant traffic from other common carriers in the area. The tenants were already using the free service which applicant's would replace. Denial of the application likely would have led to increased use of private automobiles, contrary to national goals in the reduction of air pollution levels and conservation of energy resources.⁶⁹

Another applicant proposed a unique service whereby passengers would be transported by bus between Florida and northern points while their private automobiles would be transported concurrently by truck. The buses would be equipped with rest rooms and small kitchens, would be staffed with a hostess, and would stop only for refueling and change of drivers. No existing motor carrier service was able to provide the coordinated service proposed by applicant. It was concluded the public should not be deprived of the benefits of this new type of service merely because some traffic might be diverted from existing carriers. Although it was recognized that the financial success of the proposed operation could not be predicted in advance, the degree of public support, coupled with applicant's resources, demonstrated the financial feasibility of the proposal.⁷⁰

We also considered the nature of the burden of proof of an applicant for a passenger broker's license in demonstrating the public need for the proposed service and the fitness of the applicant. It was recognized that public witnesses appearing in support of a passenger application often are unable to present the same type of detailed evidence expected in a property application. Thus, consideration was given to the nature of the personalized local service proposed by the applicant, the inability of the protesting tour operators to attract significant patronage from the communities the applicant proposed to serve, and the stimulus of competition which would enter the tour market in the area from the introduction of specialized service features under appropriate authority. The matter of

⁶⁸ *Limitation of Free Baggage Allowance—Greyhound*, 118 M.C.C. 838.

⁶⁹ *Del-Val Coach, Inc., Contract Carrier Application*, 119 M.C.C. 570.

⁷⁰ *Pollock Com. Car. Applic.—Passengers*, 119 M.C.C. 763.

fitness for a broker was perceived to consist of four elements: good general character, ability to conduct the operations proposed in an appropriate manner satisfactory to patrons, willingness to comply with regulatory requirements, and ability to obtain the required bond. It was concluded that the applicant met his statutory burden of proof and the grant of an appropriate license was warranted.⁷¹

Another applicant for a broker's license was already an established tour broker in New England and sought authority to open a new office in Atlanta. The protesting brokers were affiliated with motor common carriers of passengers, and the Commission recognized that it has consistently considered that relationships of common control between brokers and motor carriers are a restraint on the independence of judgment that is required of a broker in order to render the best and most economical services available. Under these circumstances, it was concluded that a grant of authority was warranted because it would introduce into the Atlanta tour market the services of an experienced independent broker that were not already available there.⁷²

Rates

A 3-percent general increase in bus fares and package express rates was authorized following an investigation of the carriers' proposal for a 5-percent nationwide increase.⁷³

Freight Forwarders

During the past decade the number of class A forwarders increased 76.7 percent while tons of freight and number of shipments received from shippers fell 4.2 and 34.3 percent, respectively.

The majority of new forwarders this year were granted authority to handle used household goods. Since most of these movements are containerized, the number of shipments received will continue to decline. The containerization impact can be observed by the increased use of piggyback units by forwarders—about 22 percent during the 1972-73 period.

The fuel situation may be a revitalizing factor to the forwarding industry through diversion of long haul traffic to rail forwarder service. In tandem, their exemption from regulations covering motor carriers of household goods could represent a competitive advantage.

⁷¹ *Cook Broker Application*, 119 M.C.C. 709.

⁷² *Paragon Travel Agency, Inc., Ext.—Atlanta, Ga.*, 120 M.C.C. 1.

⁷³ *Increased Motor Passenger Fares & Express Charges* (not printed).

In a rulemaking proceeding we considered whether the rules similar to those governing transportation of used household goods by motor common carriers, 49 CFR 1056, should be made applicable to freight forwarders. Although forwarders' handling of used household goods has increased, their services are used only to a limited extent.

There have been relatively few complaints regarding services of forwarders. Because shippers served by freight forwarders may be generally unaware that they may contact this Commission for information, we determined it would be beneficial for them to have a publication detailing our readiness to provide assistance. Forwarders are now required to obtain a signed receipt for such a publication, BOp 107, prior to the shipper's signing of a bill of lading. Shippers are advised that faulty services by forwarders should be reported to the Commission. We believe such reports will assist us in preventing abuses in the household goods industry from arising in the forwarding industry.⁷⁴

We investigated the activities of two ocean vessel-operating common carriers, otherwise subject to the jurisdiction of the Federal Maritime Commission (FMC) to determine if unlicensed freight forwarder operations subject to our jurisdiction were being conducted. The proceedings involved coordinated intermodal (water-land) forwarding operations. We concluded that the land operations constituted freight forwarding as defined in section 402(a)(5) and the questioned operations were without appropriate authority and in violation of section 410(a) of the act. We observed that if operations were found not to be those of freight forwarders, the Commission would, in effect, be affirmatively sanctioning the free, open, and unregulated entry by FMC-regulated, equipment operating common carriers as part IV freight forwarders. It would be an unacceptable justification that the parties were already properly regulated by the FMC as to their respective waterborne operations. Such an action would be improper, inasmuch as it would constitute a waiver of the Interstate Commerce Commission's jurisdiction, which would be totally contrary to the clear congressional intent and design underlying part IV of the act.⁷⁵ An appeal from the Commission's decision is pending.

Water Carriers

Freight revenues of water carriers increased approximately 19 percent in calendar 1973 while tons of revenue freight carried and revenue ton miles increased by 3 and 6 percent, respectively. The increase in revenue

⁷⁴ *Freight Forwarder of Household Goods—Regulations*, 344 ICC 862.

⁷⁵ *Compass, Nippon, and Transmarine—Investigation*, 344 ICC 246.

ton miles was modest compared to the 18-percent growth experienced in 1972.

Notwithstanding spiraling costs of fuel and related surcharges, the financial condition of water carriers is generally good. The outlook for continued growth is promising as a result of the recent opening of the Arkansas River navigation project, the advent of LASH, SEABEE, and miniship operations on the Mississippi River, and plans for modernizing the Illinois, Ohio, and Mississippi River systems.

Regulated water carriers will be able to utilize their equipment more efficiently as a result of enactment of Public Law 93-201, the bulk commodities exemption. The amendment to section 303(b) of the act (49 U.S.C. 903(b)) allows continuation of the mixing of regulated and unregulated traffic in a single flotilla, while eliminating the three-commodity restriction whereby no more than three dry bulk commodities can be moved in one tow.

In a declaratory order this year, the Commission determined that it has jurisdiction to regulate the movement of "LASH" (lighter-boardship traffic. The Commission gave consideration to section 302(i)(3)(B) of the act. It provides that the Commission has jurisdiction where there is a movement between any two points within the United States and there is a "transshipment" of lading prior or subsequent to movement outside this country.

It was held there is a transfer of property such as constitutes transshipment when a lighter is turned over to or by a towboat operator by or to an ocean carrier. Such transfer is analogous to the transfer of a container from this ship to a barge. Any other interpretation would permit a towboat operator to include in his tow two shipments of the same commodity between the same points, but subject to different rates because one would be regulated by this Commission, the other not. This is the type of situation part III of the act was intended to prevent. This interpretation does not result in duplicate regulation by this Commission and the Federal Maritime Commission, because the Shipping Act of 1914 states that concurrent jurisdiction is not intended. Where concurrent jurisdiction would result, this Commission, not the FMC, is the primary regulatory agency. The decision has been appealed to the courts.⁷⁶

During the fiscal year, three water carrier finance proceedings were decided by the Commission. Mergers were approved where authorization to acquire control of the merged water carriers had previously been

⁷⁶ Port Royal—Declaratory Order—"LASH" Operations, 344 ICC 876.

granted by the Commission.⁷⁷ Sea-Land Service, a water carrier engaged in intercoastal operations, sought authority to acquire control of the only other water carrier engaged in intercoastal operations. The application was approved subject to the condition that the water carriers be operated as separate entities in order to preserve the competitive balance between the two.⁷⁸

The Commission issued a new form to be used by water carriers seeking temporary authority under section 311(a) of the Interstate Commerce Act. The Form OP-WC-25, which became effective March 22, 1974, has facilitated comprehensive review of applications and has made possible more expeditious dispositions.

Express Companies

A December 1974 ruling by the Civil Aeronautics Board affecting the operational status of REA Express, Inc. (REA) may have serious bearing on the company's capability to maintain a financially viable posture. Shortly after the end of the fiscal year the CAB order was stayed for an indefinite period by a Federal court. The CAB ruled that the exclusive agreements made by REA with the airlines must end. The company's air express authority was terminated but REA was granted domestic air freight forwarding authority to go along with its international air freight forwarding rights.

REA Air Express is an expedited service which is provided through agreements with various participating air carriers. The priority boarding of small shipment air freight is the most significant feature of the service.

Revenues derived from air express shipments represent a significant part of REA's traffic, increasing steadily from \$80 million (18.6 percent) in calendar 1965 to \$107.4 million or 41 percent of the company's total revenues in calendar 1973.

In regard to surface transportation authority, REA retains its temporary authority, issued in 1968 by this Commission pursuant to section 210a(a) of the Interstate Commerce Act, to operate its "Hub System." The system essentially consist of 24 major points for dispatch and receipt of small shipment traffic. Each hub is connected with the others by a motor or rail route, or combination of both. Each hub assertedly is de-

⁷⁷ F.D. No. 27504, *American Commercial Barge Line Company—Merger—Coyle Line, Inc.* (not printed), decided Dec. 19, 1973, and F.D. No. 27441, *Knappton Towboat Company—Merger—Columbia Pacific Towing Corporation* (not printed), decided Jan. 30, 1974.

⁷⁸ F.D. No. 26430, *Sea-Land Service, Inc., R. J. Reynolds Tobacco Company, R. J. Reynolds Industries, Inc.—Control—United States Lines, Inc.* (not printed), decided Feb. 25, 1974.

signed for an area containing satellite points to be served in all-motor operations. The concept proved to be inefficient, necessitating considerable exceptions to the basic operating plans. Although the system today bears little resemblance to the original concept, the company's operations are based almost entirely upon the temporary authority in the hub application.

Surface express traffic has continued to decline but at a more moderate rate than that experienced by the company in the 1960's. REA surface traffic dropped sharply from 57.7 million shipments in calendar 1965 to 19.3 million in calendar 1970. Correspondingly during the same period, revenues declined from \$350 to \$267.2 million. However, surface traffic has stabilized somewhat during the past few years. Surface traffic volume in calendar 1971 amounted to 14.5 million shipments, 10.8 million in calendar 1972, and 10.4 million in 1973. Revenues dropped from \$172.7 million in calendar 1971 to \$148.6 million in calendar 1972 but recovered \$161.2 million in 1973. Preliminary estimates indicate that this trend will hold for fiscal 1974.

Preliminary traffic and revenue estimates indicate REA's financial position has improved slightly for fiscal 1974, primarily attributable to a 10-percent rate increase on surface transportation effective March 14, 1974. Whether REA has the capability to continue as a viable transportation entity in light of the CAB order remains to be seen.

In light of these circumstances and the special status which REA enjoys under the Interstate Commerce Act in the conduct of its express service, a joint hearing of the Senate Subcommittees on Air and Surface Transportation was held in executive session on June 10, 1974, to investigate the situation involving REA. The Commission presented testimony at these hearings concerning the current operations of REA. The conclusions of the hearing have not as yet been made public.

Since July 1, 1973, the National Railroad Passenger Corporation (Amtrak) has been operating an express service utilizing express offices in 113 terminals in 40 States and the District of Columbia. Its operations consist of three services. First, Priority Express involves a high-speed service for small package traffic (shipments up to 25 pounds) between 32 major cities on Amtrak prime corridors. Metroliner, turbo train, and other preferential Amtrak schedules are utilized. Second, Amtrak's Economy Express is limited to shipments weighing up to 250 pounds between 110 shipping centers throughout the United States, served by through express/baggage cars. Finally, the Custom Express is a specialized service designed to accommodate frequent, regular, heavy or unusual shipments. Services and charges are based upon the requirements and characteristics of the traffic.

Data relative to Amtrak's express service is sketchy. However, for the first 6 months of operation, Amtrak reports total revenues of approximately \$250,000. The average shipment cost was about \$12, with nearly 20,000 shipments made. Volume has been increasing at a rate of about 18 percent a month. Commercial shippers are the predominant users of Amtrak's express service.

Pipelines

Oil pipeline revenues and traffic failed to maintain last year's rate of growth. In the first three quarters of the fiscal year, 88 oil pipeline companies with annual operating revenues of more than \$500,000 reported that transportation revenues had increased 5.4 percent from the equivalent period in fiscal 1973. The number of barrels of crude oil and petroleum products originated and received from connections increased only 2.4 percent. This contrasts with the 9.2-percent increase in both revenues and traffic reported in the corresponding period a year earlier. The decline in growth appears to be related primarily to suspension of oil imports from the Middle East which occurred during the second and third quarters of the fiscal year.

Pipelines appear to be entering an era of dramatic change. Declining productions, increased reliance on imported crude oil and petroleum products, and new Alaskan and Outer Continental Shelf production will all work to alter the national oil pipeline system. In addition, technological developments such as coal slurry pipelines will enable pipelines to compete more and more for the transportation of commodities other than crude oil and petroleum products.

Black Mesa Pipeline, Inc., a coal slurry pipeline, reported a 10.7-percent increase in short tons of coal transported during the first three quarters of fiscal year 1974. Revenues, however, declined 28 percent during the period.

Dominating national interest in pipelines in fiscal 1974 were the go-ahead signals for construction of the 800-mile, 48-inch Trans-Alaska pipeline. With the impressive industrial team assembled by Alyeska Pipeline Service Co., it was expected that the highway-haul road from the Yukon River to Prudhoe Bay could be completed in 1974 and work started on the Valdez tanker terminal. The timetable called for laying pipe south of the Yukon in 1975, north to Prudhoe Bay in 1976 and the completion of the \$4.5 billion project in 1977.

The common carrier pipeline planned by Alyeska is designed to initially move 600,000 barrels of crude oil daily from the Prudhoe Bay field on Alaska's North Slope to the warm water port of Valdez, 789 miles to

the south, for pick up by tankers. Capacity eventually is expected to reach 2 million barrels per day.

Intermodal Services

The Commission decided a number of cases in the intermodal transportation field this year, the majority of which involve the question of jurisdiction over the domestic segment of international or Hawaiian shipments, and the type of authority required by carriers and individuals performing freight forwarder type functions. Two decisions dealt with a recurring problem, the status under part IV of the Interstate Commerce Act (the freight-forwarder provision), of individuals which arrange for through transportation of international intermodal shipments. In the first case,⁷⁹ PIE, a motor common carrier, and its wholly owned subsidiary, MITCO, were found to have performed door-to-door, intermodal, container freight services between points in the contiguous United States and Hawaii, Europe, and the Orient, at single-factor rates and under both single-carrier responsibility and a through bill of lading. PIE and its subsidiary performed the inland domestic portion of the transportation pursuant to the former's extensive motor carrier authority, arranged for the ocean transportation in the purported role of a non-vessel operator (NVO), and effected Hawaiian delivery through local exempt motor carriers, as "agent for the shipper".

We found that sections 402(a)(5) and 203(a)(18) of the act (the freight forwarder and broker definitions) specifically exclude motor carriers, and that PIE in performing the inland domestic portion of the through movement, is merely conducting motor carrier operations. No additional authority is required and there is no legal impediment to PIE's arranging for the ocean segment of the transportation as an NVO, and combining the functions to provide a through service. A contrary conclusion was reached as to MITCO, which holds no motor carrier or freight forwarder authority in its own name.

In the second proceeding,⁸⁰ we found the operations of certain maritime carriers and their affiliates to be those of a freight forwarder as defined in section 402(a)(5) of the Interstate Commerce Act. The maritime carriers solicited traffic in Japan destined to inland U.S. points. We concluded that the maritime carriers operated as forwarders for compensation, performed assembly, consolidation, break-bulk and distribution, and assumed responsibility for the transportation from point of receipt to destination. We reaffirmed our policy to promote intermodal

⁷⁹ *Modern Intermodal Traf. Corp. Investigation*, 344 ICC 557.

⁸⁰ *Compass, Nippon, and Transmarine—Investigation*, 344 ICC 246.

coordination and cooperation, and noted that joint rates and through routes of ocean carriers and carriers regulated by this Commission may be established, thus obviating a need for ocean carriers to become freight forwarders. An appeal is pending.

Also of interest was a decision of the U.S. Court of Appeals (9th Circuit), February 20, 1974, in Civil Action No. 72-1696, *Hawaiian Express Service, Inc. v. Pacific Hawaiian Terminals, Inc.* Plaintiff, a freight forwarder authorized by the Commission to operate in the San Francisco-Hawaii trade, sued to enjoin defendant, an NVOCC (non-vessel operating common carrier), from offering transportation services which amounted to freight forwarding under part IV of the act. The latter offered a "freight forwarding service between the mainland and Hawaii which involves: (a) Arranging for transportation from inland point of origin to defendant's San Francisco terminal; (b) sorting and loading shipments into containers furnished either by Matson Navigation Co. or Seatrain Lines California; (c) arranging for motor carriage from its terminal to the steamship pier, and, for such services, paying either the charge contained in Matson's all-water tariff on file with the FMC, or the charge in Seatrain's joint motor-water tariff on file with both the FMC and the ICC; (d) arranging for the underlying ocean carriage; and (e) arranging for local motor carrier delivery in Hawaii.

In answering affirmatively the question of whether or not defendant "utilizes" a part II motor carrier in the performance of its activities, within the meaning of section 402(a)(5) of the act, the court noted that in arranging for motor carrier transportation from inland origin to its San Francisco terminal the defendant brought its activities within purview of the act. The court also dealt with the transportation performed between defendant's terminal and the pier, distinguishing the situation governed by the *IML Seatransit* case, where such transportation was performed pursuant to Matson's all-water tariff, and the case where the transportation was performed pursuant to Seatrain's joint motor-water tariff on file with the FMC and the ICC.

An additional case, *Port Royal Declaratory Order—"LASH" Operations*, 344 ICC 876 (1973), presented an analogous problem in the water carrier field. In LASH (lighter-aboard-ship) service, small cargo laden vessels (lighters) without motive power, transported as a part of a through movement in foreign commerce, are transferred, much as a trailer to and from a rail flatcar, from the ocean carrier, or "mother ship", commonly stationed at a major port, to other carriers for transportation, by means of pushboats and tugboats to various other ports, thus relieving the "mother ship" from making numerous port calls. Petitioner provided such transportation by means of tugboats or pushboats, and

the question before the Commission was whether or not in so doing, it became subject to our jurisdiction. Section 302(i)(3)(B) of the act subjects to our jurisdiction the domestic segment when such transportation is preceded or followed by a "transshipment".

In finding that the transfer of lighters between port and ship constitutes a "transshipment" within the meaning of the section, the Commission characterized the lighters as containers and as being themselves property whether moving loaded or unloaded.

Intermodal acquisitions have required Commission consideration on a limited basis in the past fiscal year. Bay Cities Transportation Co., a water carrier with operations on the west coast of the United States was authorized to acquire control of a motor carrier with operations throughout Alaska.⁸¹ Another application involved a motor common carrier seeking authority to acquire a water carrier providing transportation service along the east coast.⁸² The proceeding is pending.

Tariffs

Rate changes are filed by regulated carriers in the form of tariffs which are made available for public examination 30 days before becoming effective. This procedure gives interested parties the opportunity to protest the proposals. Protests, as well as justifications for changes, may be considered by the entire Commission or a three-member division. More commonly, the issue of whether to prevent the institution of carriers' rate proposals is acted upon by the Suspension and Fourth Section Board whose decisions may be appealed to the Commission level. A total of 3,877 rate adjustments involving changes in nearly 8,000 tariffs of rail, motor, water, freight forwarder, pipeline and express carriers were considered by the Suspension and Fourth Section Board. Disposition of these cases may be found in the table on page 109.

More than 3,000 cases concerning rate and tariff applications were resolved informally during the fiscal year. Controversies settled in this manner saved money and time for the disagreeing parties as well as for the Government.

We received 329 applications and registrations requesting authority to refund freight charges already collected or to waive collection on the grounds of admitted unreasonableness. The refunds and waivers authorized amounted to \$1,219,726.

⁸¹ F.D. No. 27420, *Bay Cities Transportation—Control—Mukluk Freight Lines, Inc.*, embracing docket No. 85821 (Sub-No. 2), served June 2, 1974 (not printed).

⁸² No. MC-F-11701, *Hoffman Rigging & Crane Service, Inc., purchase—Raymond International, Inc.*

The Interstate Commerce Act provides that carriers may not limit their liability for damage to shipments, except as authorized by the Commission to establish and maintain rates dependent upon the value declared by the shipper, which shall limit liability and recovery to an amount not exceeding the value declared. Such authorization is granted by the issuance of released rates orders. Fifty applications to establish released rates were processed during the year and 43 authorities were granted, covering such commodities as used household goods, personal effects, business papers and other articles for which a value is difficult to determine.

Unusual Tariffs

Recently the Chicago & Northwestern Transportation Co. established a new "Rental and/or Lease of Equipment" tariff. Historically, shippers have leased equipment, especially tank cars, from leasing companies with the rail carrier providing allowances to the shippers for use of the equipment. The Northwestern tariff differs from the historical concept of leasing. It provides a lease charge of \$5 per day for new 50-foot railroad boxcars equipped with insulation, cushioned underframe, and dual air packs. The Ralston Purina Co. under the arrangement will acquire and lease to the C. & N.W. 110 new 50-foot cars. The new cars will carry C. & N.W. car markings, and will be placed in assigned service for the account of Ralston. However, the C. & N.W. has the option, when in their opinion inefficient car utilization results from the assignment of such cars, to use them as free running cars in general service. Under the lease arrangement C. & N.W. will be responsible under certain circumstances for both running repairs and heavy bad order repairs incurred during the term of the lease on each of the cars.

Central States Motor Freight Bureau, Inc. filed a new "Substituted Intramodal Motor Carrier Service" tariff, effective January 1, 1974. Ordinarily, substitution concerns one mode for another, motor for rail for example. The objective of the new service was conservation of truck fuel. The tariff applies between Chicago and St. Louis, and concerns certificated motor carriers. Each carrier at one time or another has imbalances of traffic, so that deadheading of empty trucks back to one point or the other is sometimes necessary. Under the tariff the substituting carrier must have the requisite operating authority and it will only apply in connection with loaded trailers for dock-to-dock movement. Thus, instead of deadheading from or to, as the case may be, carriers could have a revenue return load. The agent for the participating carriers indicated

that the tariff will be a significant forward step in decreasing deadheading and conserving fuel.

Computerization

The trend toward use of computer technology in the publication of rail agency tariffs continues at an increasing rate. All of the major rail publishing agents are committed to the use of computer-generated inputs in publishing their tariffs. The past year has shown an increased number of this type of publication and an increase in the quality and expanded application of this input medium. The Railway Equipment Register is now available on both printed and computer tape. Standard transportation commodity codes are being published in most of the rail agency publications which have used computerized input data. The standard point location codes have been incorporated in the National Rate Basis Tariff. The use of these codes in tariffs establishes standards to be used throughout the industry and facilitates the creation of computer generated products for use by many segments of the transportation industry. The majority of large and medium sized shippers manufacture computerized products for internal company use and also for communicating with their customers and suppliers.

A major motor common carrier agent now utilizes computer inputs for compiling and publishing two of its major tariffs and it contemplates converting its entire library of tariffs to this method of publication. Another major motor common carrier agent is now offering all of its tariffs in printed and microfiche formats. It reports a favorable response from the shipping public because of the more expeditious receipt by mail of the microfiche and the reduced time and space requirement for filing.

Consumer Protection

An increasing number of requests for advice concerning the transportation problems or for rate information on future shipments is being received. We cannot provide traffic management solutions to all persons seeking our aid, but we can give guidance or direct them to proper sources. Many of these requests are from small businesses and individual travelers who are unable to keep abreast of the frequent changes in rate and tariff provisions affecting the cost of transportation services.

Although the Commission puts forth considerable effort to keep the shipping public advised of tariff changes by issuing public advisories, many users of transportation apparently are not reached. Motor common carriers who now transport the largest share of small shipments at one

time included the cost of many accessorial services in the base line haul rate. Such services are now subject to additional charges which are published in tariff form and filed with the Commission, as required by law. Numerous complaints have been received relative to such charges. In a number of instances our investigation found that the tariffs had been incorrectly applied. The carriers were advised, and overcharges of over \$16,000 were refunded to complainants. In other cases we were able to advise the shipper how to avoid such charges in the future.

A special consumer unit in our tariff examining branch has been expanded with the sole purpose of reviewing tariff publications that adversely affect consumer interests. Proposed tariff provisions not in full conformity with decisions of the Commission or courts and those that unlawfully limit the common carrier's duty are rejected or referred to the Suspension and Fourth Section Board for possible suspension and investigation. An increasing number of Commission decisions are in the area of consumer protection. Compliance is policed by this special unit. An example is the multipronged attack ordered in *Restrictions on Service by Motor Carriers—Compliance Reports and Interpretations*, 119 M.C.C. 691 which more clearly defined tariff restrictions and other provisions covered by the original findings in Ex Parte MC-77. As a result of this and the increase in the consumer unit staff, the number of tariff filings being treated has greatly increased as evidenced by the following table:

Fiscal year	Publications			
	Criticized	Rejected	Submitted to Suspension and 4th Section Board	Suspended
1973.....	1,787	48	22	.....
1974.....	4,708	963	55	24

Accounting

During the fiscal year we revised the system of accounts for express companies (49 CFR 1203), the first major revision since 1914. Designed to meet the specific needs of express companies, it is adaptable for use with modern electronic computer systems and will bring the accounting procedures into closer conformity with generally accepted accounting principles.

The new uniform system of accounts for motor carriers of property (49 CFR 1207) was amended by adding a new separate classification of revenue and expense for carriers engaged in the moving of household

goods. A new instruction requires that household goods carriers shall acquire from each of their agents an income statement, including a detailed schedule of operating revenues and expenses, for each calendar year the agency agreement is in effect and a balance sheet as of the last day of each such year. The required statements shall be prepared in accordance with the prescribed schedules for such statements in the annual report form filed with the Commission by the authorized carrier. The agency reporting requirement is intended to improve the quality of agents as well as the agent/principal relationship and the agency system itself. The financial statements of the agents will enable the authorized carriers to appraise each agent's financial capability and thus base selection or cancellation of agents more on facts than allegations.

The Commission instituted a proposal in docket No. 34178 (Sub-No. 2), *Accounting for Income Taxes Interperiod Tax Allocation*, whereby the Commission would require carriers to account for Federal income taxes under the deferred method. Adoption of deferred income tax accounting would eliminate one of the major differences between the Commission's accounting rules and generally accepted accounting principles. Another proposal was instituted in docket No. 35949, *Equity Method of Accounting for Certain Long-Term Investments in Common Stocks*, to require carriers to adopt the equity method of accounting for investments in common stock. Under this method the carrier recognizes its share of the earnings or losses of its affiliate in the periods for which they are reported by the affiliate in its financial statements rather than in the period in which an affiliate declares a dividend. Adoption of the equity method between the Commission's accounting rules and generally accepted accounting principles will eliminate some differences.

An exposure draft of a new joint annual report form for class III motor carriers of property has been distributed to all State regulatory agencies. The proposed form is a cooperative effort between those agencies and the Commission intended to eliminate the multiple reporting burden on small motor carriers to meet Federal and State reporting requirements.

Study of Empty to Loaded Freight Car-Mile Ratios

A study entitled "Ratios of Empty to Loaded Freight Car-Miles by Type of Car and Performance Factors for Way, Through and All Trains Combined" was issued in May 1974, as Statement No. 1S2-72.

Data for the study was developed from 1972 operations of 64 class I, line haul railroads. The empty return ratios were computed separately for "time and mileage basis cars," "shipper-private line cars," "no pay-

ment cars" and all types combined. The data for each of the above groups was collected individually by AAR car type-codes for more refinement in cost study work.

These ratios are used by the Commission, the railroads, shippers, and others to assign the cost of moving empty cars against the loaded movement. This is necessary to compute properly, the total cost of any loaded movement.

Ratios for nearly every type of car were higher than those developed in the previous study based on 1968 operations.

Financial Oversight

Through its Early Warning Branch the Commission monitors class I railroads and several large motor carriers to determine which companies have financial and other problems that could adversely affect service levels. This makes possible the determination of potential problem areas so that corrective action can be taken before a carrier declines to a marginal or poor classification. All reports of the carriers are monitored to determine: (1) Adequacy of working capital and cash position; (2) adequacy of earnings to cover charges; (3) restrictive credit and other agreements; (4) adequacy of maintenance levels; (5) traffic trends; and (6) adequacy of capital expenditures.

Environment

In December 1973, the Commission established a formal environmental staff which would analyze the potential environmental ramifications, both beneficial and adverse, of all pertinent Commission actions. Personnel is comprised of engineers, biologists, social and physical scientists, land use planners, and attorneys, thereby formulating a truly independent, interdisciplinary staff.

The Commission's staff also in late 1973, with the assistance of the MITRE Corp. (a nonprofit research and consulting organization), developed a methodology to comprehensively assess the environmental impacts of railroad trackage abandonment applications by considering potential development or land use plans in the area affected by a proposed abandonment, the availability and effects of alternative transportation, potential increased demand for rail freight service, reasonable alternatives to the proposed action, and various other factors. In those instances where the action will be inconsistent with ongoing or potential State or local land use plans and programs or where adverse impacts are likely, the staff contacts affected interests in order to reach an accom-

modation aimed at developing feasible mitigating measures. In Cincinnati, Ohio, such efforts were instrumental in opening a dialogue between the concerned railroads and city and public interest organizations which may have facilitated the preservation of the historic Union Terminal rotunda. In numerous other cases, the staff has evaluated the recreational potential of abandoned rights-of-way for use as hiking and bicycling trails (see also abandonments, page 23).

In the first 6 months of the environmental staff's existence, it has prepared and circulated for public review and comment 10 detailed environmental impact statements covering a wide range of activities.

In I. & S. No. 8875, *Increased Fares, Port Authority Trans-Hudson Corporation*, the staff analyzed the environmental impact associated with a proposed increase in commuter fares for traffic between New York and New Jersey. Air quality in the area affected by the proposal has apparently been so severely degraded to the extent that the involved States were required to prepare transportation control plans under the Authority of the Clean Air Act Amendments of 1970. This included immediate steps to be taken to achieve national air quality standards by 1978, and additional measures to insure that the region's air supply is maintained at healthful levels.

Recognizing that motor vehicles represented an environmentally inefficient means of travel and that they were the cause of most of the existing air quality problems, the plans proposed various implementation strategies which would reduce automobile usage while at the same time providing incentives to increased utilization of mass transit systems. The staff-prepared impact statement considered the fare proposal's effect on the area's health and welfare, and the Nation's interest in conserving scarce energy resources, and concluded that higher fares may be a disincentive to increased mass transit utilization, thereby making it more difficult for the States of New York and New Jersey to achieve and maintain air quality standards. Similar issues and conclusions were involved in a staff-prepared statement for proposed commuter fare increases between Philadelphia, Pa., and Camden, N.J., I. & S. No. 8705, *Passenger Fares Between Pennsylvania and New Jersey*.

The Commission also participated in the preparation of an impact statement in conjunction with the Departments of Interior and Agriculture for the proposed development of the 16,000 square mile Eastern Powder River Coal Basin in Wyoming. The specific proposal before the Commission in F.D. 27579, is an application by the Burlington Northern, Inc., and the Chicago & North Western Transportation Co. to construct and operate a 113 mile rail line which would transport low-sulfur

coal from surface mines in the basin to electric generating facilities in the Central and Southwestern States. Instead of limiting the analysis to potential impact in the immediate vicinity of the new rail line, the involved agencies determined that the proposal and other related Federal actions would precipitate the future development of coal resources in the broad, geographic area. Accordingly, the five volume statement represents one of the few efforts to date in which Federal plans, functions, and programs, are coordinated in order to more effectively achieve a balance between population, environmental preservation, and resources use which will permit high standards of living and a wide sharing of life's amenities.

Another railroad construction application, F.D. 27543, necessitated the issuance of a draft environmental impact statement which considered the environmental impacts of the construction and operation of approximately 5 miles of rail line in Duval County, Fla., as well as the secondary or cumulative impacts associated with the development of the planned new community of New Duval which the rail line would serve (see also Construction, page 21).

In the area of motor carrier operations an environmental statement was issued and considered in a proceeding which eliminated the necessity of motor common carriers operating over irregular routes from observing gateways which require such carriers to travel circuitous routes to reach their destinations.⁸³ This proceeding was particularly timely in view of the recent energy crisis in that the report recognized that the action would conserve about 300 million gallons of fuel a year. The related environmental analysis received the highest possible rating by the Environmental Protection Agency, that is, the agency had no environmental objections to the action and the statement adequately set forth the environmental impact of the proposal as well as the reasonable available alternatives (see also Energy Shortage, page 5).

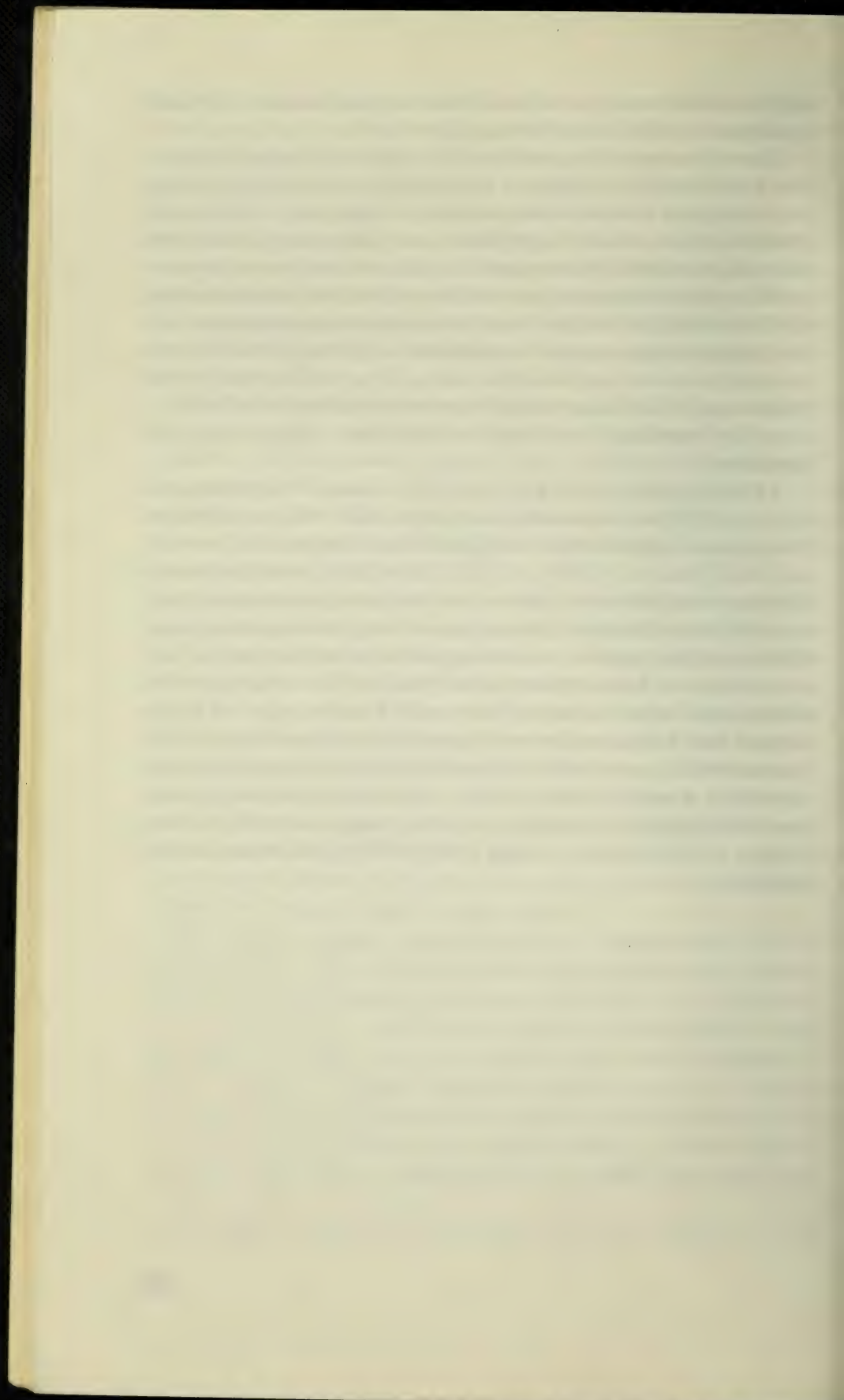
The energy crisis and concomitant desire to conserve scarce fuel resources led to another rulemaking proceeding involving motor carriers which necessitated issuance of an impact statement. In Ex Parte No. MC-43 (Sub-No. 3), the Commission proposed modifications of existing regulations which govern the lease of motor vehicle equipment in order to reduce the degree of empty backhauls experienced by private motor carriers. The impact statement concluded that the action would be environmentally beneficial to the extent it offered a greater efficiency and better utilization of existing equipment thereby conserving energy

⁸³ Ex Parte No. 55 (Sub-No. 8). *Gateway Elimination*, 119 M.C.C. 170, 119 M.C.C. 530.

supplies and reducing overall noise levels attributable to motor vehicle operations (see also Energy Shortage, page 5).

The environmental impacts of the Commission's rail freight rate structure were likewise the subject of two staff-prepared draft impact statements compiled with the assistance of the MITRE Corp. Ex Parte 295 (Sub-No. 1), *Increased Freight Rates and Charges 1973—Recyclable Materials*, considered environmental impacts associated with a 3-percent rail transportation increase on recyclable commodities. In a similar vein, Ex Parte No. 270 (Sub-Nos. 5 and 6) involved in investigation of railroad freight rate structures for iron ores and scrap iron and steel wherein the draft statement concluded that since a 10-percent increase in scrap freight rates would cause only a 0.6-percent reduction in utilization of scrap for recycling, the related environmental impacts were not significant.

A third rail rate case, Ex Parte No. 281, *Increased Freight Rates and Charges, 1972*, was discussed in the Commission's 1973 annual report. There it was reported that the Supreme Court had decided *inter alia*, in *United States v. SCRAP*, 412 U.S. 669 (1973), that the National Environmental Policy Act did not give the district courts the authority to enjoin the collection of railroad rates during the suspension period. This proceeding, however, was the subject of yet another judicial decision wherein the District Court for the District of Columbia vacated the Commission's orders authorizing the requested rate increase and further ordered that the proceeding be reopened for full consideration of the increase's effect on recyclable commodities through the preparation and circulation of another draft and then final environmental impact statement and thereafter the issuance of a final revised order by the Commission, *SCRAP v. U.S.*, 6 ERC 1305 (1974). This decision is being appealed.



ENFORCEMENT

The Commission utilizes a broadly based enforcement program to assure orderly organization of the transportation system, without which the consumer would quickly encounter chaos in rates and service. Areas of special aid to consumers included enforcement actions against unlawful practices involving household goods moves, small shipment service, freight car service, and maintenance of proper insurance for protection of the public.

Other areas of the Commission's enforcement program included court injunctions, criminal penalties, civil forfeitures and contempt citations against:

- Destruction of rate integrity by granting rebates or concessions.
- Illegal operations in competition with authorized carriage.
- Practices affecting improper capitalization.
- Unauthorized control of carriers.
- Failure of carriers to provide adequate service to meet the needs of the public.

During the year the Commission's enforcement staff, as indicated in appendix B, recorded hundreds of successful prosecutions aimed at correcting abuses and preventing future violations of the Interstate Commerce Act.

Carrier Service

Violation of service orders requiring timely placing and removing of freight cars so as to improve equipment utilization resulted in civil forfeiture settlements involving:

Illinois Central Gulf R.R. Co.....	\$88,000
Louisville and Nashville R.R. Co.....	74,200
Burlington Northern, Inc.....	57,600
Missouri Pacific R.R. Co.....	56,900
Seaboard Coast Line R.R. Co.....	48,575
Union Pacific R.R. Co.....	30,000
Terminal Railroad Association of St. Louis.....	30,000
Chicago, Rock Island and Pacific R.R. Co.....	30,000

The Clinchfield Railroad Co. paid forfeitures totaling \$11,000 for

violations of our credit regulations, as well as its disregard of the Uniform Freight Classification Rules. The rules require consignees of rail shipments to remove all dunnage and incoming lading prior to release of a car and its further movement by the delivering line.

An injunctive action was initiated against Southern Railway Co. and Central of Georgia Railroad Co. for refusing to supply rail cars for transportation of shipments moving to off-line points.

An injunction was issued against Maine Central Railroad enjoining it from abandoning its Beecher Falls Branch Line in northern Vermont. The abandonment would have seriously affected the economy of the entire area.

A Federal court found Joseph C. Bonanno, Alexander Theoharous, and Alfred Merolla in contempt of its injunction requiring Bonanno and the Marianna & Blountstown Railroad to make improvements in the carrier's facilities which were necessary for resumption of operations.

The Commission intervened in *Pacific Fruit Express v. Arkon, Canton & Youngstown R. Co. et al.*, 355 F. Supp. 700 (1973), which involved failure of railroads to comply with a Commission order to execute contracts with mechanical protective service companies. One of the provisions ordered to be placed in the contracts requires carriers to make mechanical protective service companies whole for losses they have sustained. The district court issued an injunction requiring execution of the contracts. The matter is pending before the Court of Appeals for the Ninth Circuit. Pacific Fruit Express claimed damages of approximately \$20 million.

The Bureau of Enforcement participated in a number of Commission proceedings involving consumer and other service problems. Its participation in applications for extension of authority, in which the bureau offered evidence dealing with carriers' fitness based on their records of noncompliance in cases such as *Clarence R. Berger* and *Provisioners Frozen Express, Inc.*, resulted in the Commission finding these applicants unfit to receive additional authority. The bureau participated in an investigation into the practices of AAACon Auto Transport, Inc. in which the administrative law judge found that AAACon was engaged in unjust and unreasonable practices in handling of claims, issuance of bills of lading, insurance, bonding of drivers, and unauthorized operations. In this decision, it was held that Auto Trip U.S.A., Inc., a related company, was unfit in a freight forwarder application.

Service matters were also the subject of court actions initiated by the Commission. In addition, Commission proceedings were concluded involving the performance of transportation without proper insurance

coverage and carrier failure to timely remit c.o.d. funds, a matter of importance to all shipper consumers and particularly small business. Court actions for such violations were brought against Shumpert Truck Line, Inc. with the court imposing a fine of \$3,200 for its failure to remit c.o.d. collections within 10 days of delivery of the shipment. Injunctions were entered against Albuquerque-Phoenix Express and Star Valley Express Service requiring remittance of c.o.d. collections within 10 days of delivery of a shipment.

It was necessary to initiate a civil forfeiture action resulting in a \$2,000 forfeiture because an applicant, Hagerstown Motor Express, Inc., filed false shipper certifications in support of an application seeking additional operating authority.

Rate Integrity

The following were some of the significant penalties imposed during the year involving deviations from published rates:

Advanced Shippers Association, Inc.....	\$55,000
Penn Central Transportation Co.....	50,000
Westinghouse Electric Corp.....	40,000
Chesapeake and Ohio Railway Co.....	25,000
West Coast Shippers Association of Philadelphia.....	23,000
Shippers Traffic Service, Inc.....	20,000
Cargo Shippers Association of East Cambridge.....	15,000
Weyerhaeuser Co.....	13,262
Harold Willinger, doing business as Assembly Consolidators, Maxon Industries, Inc. and Silver Fleet, Inc.....	12,000
Heart of America Shippers Association of Kansas City.....	10,000
Tenneco, Inc.....	8,000
Fibrecor, Inc.....	5,000
Chemical Leaman Tank Lines, Inc.....	4,500
Browning-Ferris Industries, Inc.....	4,000
Atchison Topeka and Santa Fe Ry. Co.....	3,000

In cases such as these, undercharges are often billed and collected by the carrier as a result of our action. For example, in addition to the penalty, Westinghouse Electric Corp. paid in excess of \$152,000 in undercharges to the billing carriers.

A complaint seeking civil forfeitures in excess of \$1 million has been filed against Standard Oil Co. (Kentucky) for accepting rebates from Cal-Ky Pipe Line Co., a common carrier subject to Part I of the act, on the transportation of petroleum from Pass Fourchon, La. to Pascagoula, Miss.

A number of other cases where the integrity of published rates has been damaged, involved providing and obtaining free carrier services or undeserved allowances.

Significant cases during the past year involving free carrier service or allowances included:

Western Pacific Railroad Co.....	\$42, 000
Norfolk and Western Railway Co.....	10, 000

Illegal Operations

Much of the Commission's enforcement activity continues to be directed toward obtaining compliance with operating rights provisions of the act. The various guises and activities undertaken by those operating without authority or beyond their authority have been described in past annual reports but new schemes continue to be devised. This year various unlawful operators paid fines and forfeitures; were subject to court injunctions, contempt penalties for violations of court orders, Commission cease and desist orders, and findings of unfitness to conduct proposed operations; and received term limitations in operating authority granted.

This aspect of the Commission's enforcement program requires continuing attention because of the predilection of certificated, as well as unlicensed carriers, to participate in transportation revenue regardless of whether authority for the particular operation has been obtained and the tendency of each illegal operation to grow if unchecked. Much of our effort has centered on motor carriers and shippers, which forfeited over \$650,000 in civil claims made and settled by the Commission. An example was the forfeitures totaling \$7,000 received from Co-Op Cartage Co., an unauthorized motor carrier, and Strick Corp., a shipper, utilizing Co-Op's services. Unauthorized freight forwarding and broker activities also appear to be prevalent and will require increased Commission attention.

A case having considerable impact on our effort to control unlawful transportation by agricultural cooperatives was the decision by a district court refusing to grant an injunction to the Commission to require a cooperative to allow inspection of its records as contemplated by section 220(g) of the act. The court held that the cooperative was not a motor carrier and injunctive provisions of section 222(b)(1) of the act did not apply. However, the Ninth Circuit Court of Appeals in *I.C.C. v. Valley Growers Co-op*, 493 F. 2d 888, held the Commission had the right to inspect records of agricultural cooperatives and the implied power to seek an injunction to examine the records of any agricultural cooperative which had filed a notice of intent to perform transportation for non-members.

Practices Affecting Carrier Capitalization

Many of the matters and actions involved in the Commission's oversight of carrier financial activities relate to or affect carrier capitalization.

An important aspect of capitalization is the negative impact caused by extension of credit by carriers for long periods of time and its detriment to a stable transportation industry. The Interstate Commerce Act requires a carrier to obtain cash for shipments carried, unless it extends credit within terms of ICC regulations. The following fines and forfeitures are some of the significant recent cases involving unlawful extension of credit:

Baltimore and Ohio R.R. Co.....	\$27, 500
St. Louis-San Francisco Ry. Co.....	22, 500
Montgomery Ward & Co.....	20, 000
Davenport, Rock Island and North Western Ry. Co.....	20, 000
Lyons Container Services, Inc.....	20, 000
Georgia RR.....	15, 000
Burlington Northern, Inc.....	15, 000
Texas Shippers Association, Inc.....	10, 000

Control and Antitrust Matters

Prosecution by the Commission and the Department of Justice of unfair competition cases against the Greyhound Corp., Greyhound Lines, Inc., R. F. Shaffer, J. L. Kerrigan, and F. L. Nageotte as reported in last year's annual report resulted in the court finding the Greyhound Corp. and Greyhound Lines, Inc. guilty of criminal contempt. The Greyhound Corp., Greyhound Lines, Inc., R. F. Shaffer, J. L. Kerrigan and F. L. Nageotte were also found guilty of civil contempt. On January 22, 1974, in the Northern District of Illinois, Eastern Division, the Greyhound Corp. was fined \$100,000 and Greyhound Lines, Inc. was fined \$500,000. In addition to the fines, the defendant corporations were required to file with the court, the Commission, and the Department of Justice a report every 6 months for 5 years showing their efforts to comply and their success in achieving compliance with the effective provisions of the court's injunction. These fines in their totality represent the largest amount ever imposed for a violation originating from the nonobservance of a Commission order. The defendants have appealed the decision.

Financial Oversight

Carrier financial activities are subject to recordkeeping and reporting requirements as well as substantive laws covering financial responsibility.

These requirements sometimes necessitate enforcement actions, such as: Lincoln-Dixie Freight Lines, Inc. forfeited \$2,500 for failure to keep accounting records so as to reflect true and accurate expenses and Rice Truck Lines forfeited \$3,000 for failing to file financial reports.

During the year, the Commission utilized its Bureau of Enforcement in a number of complex administrative cases involving exercise of significant financial, operational, or management responsibilities of regulated carriers. The following listed cases are examples of such proceedings:

Ex Parte No. 270 (Sub-No. 1), Investigation of Railway Freight Rate Structure, Export-Import Rates and Charges.

Ex Parte No. 252 (Sub-No. 1), Investigation of Incentive Per Diem Charges for Rail Cars.

Docket No. 35288, Investigation into the Management of the Kansas City Southern Railway Co. and the Louisiana and Arkansas Railway Co. and Affiliated Companies.

F. D. No. 27589, Request of American Rail Box Car and Trailer Train Co. for Approval of Pooling Certain Rail Cars.

Ex Parte 297, Nationwide Investigation of Rate Bureaus.

Docket No. 35291, Investigation into the Management of the Business of the Penn Central Transportation Co. and Affiliated Companies.

RULEMAKING

The Commission utilizes the rulemaking process to determine the policy guidelines necessary for the refining of transport facilities and services to meet the present and future needs of the public interest. The rulemaking list that follows documents this process within the Commission during the fiscal year. Unrevealed, however, are the varied complexities involved in each of the areas identified. The public forum in which these proceedings are conducted presents an opportunity for full public exploration of the issues, intentions, and expectations offered by this flexible and effective means of policy development.

Rulemaking Proceedings—Fiscal 1974

(*Indicates action completed)

Rules Affecting the Broad Range of Transportation

No. 34013 (Sub-No. 1)	Cost Standards—Intermodal Rate Proceedings.
No. 32153	Accounting for Accumulated Depreciation on Improvements to Leased Property.
No. 35613	Regulations for the Transmission and Furnishing of Tariffs and Schedules to Subscribers and Other Persons.
Ex Parte No. 73	Regulations for Payment of Rates and Charges.
Ex Parte No. 246 (Sub-No. 1)	Regulations Governing Fees for Services Performed in Connection with Licensing and Related Activities.
Ex Parte No. 251	Joint Rates and Practices of Surface and Air Carriers.
Ex Parte No. 261	Development of Through Intermodal Transportation in U.S. Ocean Borne Trade, 337 ICC 625.
Ex Parte No. 275	Securities and Financial Transactions (Uniform Commercial Code), 344 ICC 114.
Ex Parte No. 278	Investigation of Discrimination Practices of Carriers.
Ex Parte No. 279	Securities Regulations—Public Offerings, 344 ICC 168.
Ex Parte No. 282	Railroad and Water Carrier Consolidation Procedures.
Ex Parte No. 294*	Revocation of Tariff Circular Rules, 344 ICC 1.
Ex Parte No. 297	Rate Bureau Investigation.
Ex Parte No. 301	The Energy Crisis and the Need for Emergency Transportation Legislation.
Ex Parte No. 304	Amendment of Rule 27 of Tariff Circular #20, Intermediate Application of Rates.

RAILROADS

- No. 35959..... Investigation of Charges for Furnishing Tariffs by Eastern Railroads.
- Ex Parte No. 252 (Sub-No. 2). Investigation of Incentive Per Diem Charges for Rail Cars.
- Ex Parte No. 270..... Investigation of Railroad Freight Structure.
- Ex Parte No. 270 (Sub-No. 1). Investigation of Railroad Freight Structure—Export—Import Rates and Charges.
- Ex Parte No. 270 (Sub-No. 2). Investigation of Railroad Freight Service.
- Ex Parte No. 271..... Net Investment—Railroad Rate Base.
- Ex Parte No. 274..... Abandonment of Railroad Lines Where No Public Objection is Sustained.
- Ex Parte No. 277..... Adequacy and Safety of Railroad Passenger Service.
- Ex Parte No. 277 (Sub-No. 1)*. Adequacy of Intercity Rail Passenger Service, 344 I.C.C. 758.
- Ex Parte No. 285..... Maintenance of Demurrage, Detention and Accessorial Charge Records by Rail.
- Ex Parte No. 286..... Adequate Notice to the Public of Proposed General Increases in Freight Rates and Passenger Fares.
- Ex Parte No. 289..... Remittance of Demurrage Charges.
- Ex Parte No. 290..... Procedures for General Increase Proceedings.
- Ex Parte No. 290 (Sub-No. 1). Procedure Governing Rail Carrier General Increase Proceedings.
- Ex Parte No. 293..... Northeast Rail Investigation.
- Ex Parte No. 293 (Sub-No. 3). Rail Reorganization Act of 1973—Submission of Cost Data to Justify Reimbursement.
- Ex Parte No. 298..... Requirements and Procedures Relating to Railroad Rate Adjustment Act of 1973.
- Ex Parte No. 270 (Sub-No. 3). Investigation of Railroad Freight Rate Structure—Uneven Effects of General Increases on Individual Railroads.
- Ex Parte No. 270 (Sub-No. 4). Investigation of Railroad Freight Rate Structure—Coal.
- Ex Parte No. 270 (Sub-No. 5). Investigation of Railroad Freight Rate Structure—Iron Ores.
- Ex Parte No. 270 (Sub-No. 6). Investigation of Railroad Freight Rate Structure—Scrap Iron and Steel.
- Ex Parte No. 270 (Sub-No. 7). Investigation of Railroad Freight Rate Structure—Lumber and Lumber Products.
- Ex Parte No. 270 (Sub-No. 8). Investigation of Railroad Freight Rate Structure—Paper and Paper Products.

MOTOR CARRIERS

- No. 32155 (Sub-No. 3)*..... Classification of Revenue and Expense Accounts for Class I and Class II Common and Contract Motor Carriers of Property for Household Goods Operations, 344 ICC 373.
- No. 32464 (Sub-No. 1)*..... Minimum Rule of Property Accounting for Inland and Coastal Water Carriers, Not Printed.
- Ex Parte No. 263 (Sub-No. 1).. Processing of Loss and Damage Claims.
- Ex Parte No. 263 (Sub-No. 2).. Rules, Regulations and Practices of Regulated Carriers with Respect to Processing of Loss and Damage Claims.
- Ex Parte No. 266 (Sub-No. 1)*. Scope of Terminal Areas, 343 ICC 565.

Ex Parte No. 284.....	Definition of Reasonable Dispatch.
Ex Parte No. 296.....	Procedure for Partial Recoupment of Increased Carrier Labor Costs.
Ex Parte No. MC-1 (Sub-No. 3).*	Credit Rules, 118 M.C.C. 778.
Ex Parte No. MC-1 (Sub-No. 5).	Payment of Rates and Charges of Motor Carriers by Shippers.
Ex Parte No. MC-5*.....	Security for the Protection of the Public as Provided in Part II of the Interstate Commerce Act, Not Printed—Decided: Mar. 11, 1974.
Ex Parte No. MC-19 (Sub-No. 7).*	Practices of Motor Common Carriers of Household Goods, 118 M.C.C. 762.
Ex Parte No. MC-19 (Sub-No. 15).*	Rules for Advance Reservations of Vehicle Space, 119 M.C.C. 733.
Ex Parte No. MC-19 (Sub-No. 16).*	Extension of Credit, 118 M.C.C. 746.
Ex Parte No. MC-19 (Sub-No. 19).*	Practices of Motor Common Carriers of Household Goods (Consumer Protection), 119 M.C.C. 585
Ex Parte No. MC-19 (Sub-No. 20).	Household Goods (Liability Limitations).
Ex Parte No. MC-19 (Sub-No. 21).*	Practice of Motor Common Carriers Household Goods (Amendments of Rules 1056.6 and 1056.11)—Withdrawn.
Ex Parte No. MC-19 (Sub-No. 22)*.	Practices of Motor Carriers of Household Goods for Institution of a Proceeding Regarding Interpretations Part 1056 Rules and Regulations—Withdrawn.
Ex Parte No. MC-43 (Sub-No. 2)*.	Adjustment of Compensation for Equipment Leased by Motor Carriers of Property Because of Rising Fuel Costs, Not Printed, Decided: Feb. 14, 1974.
Ex Parte No. MC-43 (Sub-No. 3).	Lease to Regulated Motor Carriers of Vehicles with Drivers by Private Carriers.
Ex Parte No. MC-55 (Sub-No. 3).	Procedural Discovery Rules.
Ex Parte No. MC-55 (Sub-No. 8)*.	Motor Common Carriers of Property, Routes and Service (Petition for the Elimination of Gateways by Rulemaking), 119 M.C.C. 530.
Ex Parte No. MC-67 (Sub-No. 2)*.	State Registration of Emergency Temporary and Temporary Authority, 119 M.C.C. 327.
Ex Parte No. MC-77 (Sub-No. 1)*.	Restrictions on Service by Motor Common Carriers (Compliance Reports and Interpretations), 119 M.C.C. 691.
Ex Parte No. MC-80.....	Requirements for Motor Common Carriers to Keep Records of Requests and to Explain Failures to Meet Requests.
Ex Parte No. MC-82.....	New Procedures for Motor Carrier Revenue Proceedings.
Ex Parte No. MC-87.....	Interpretation of Operating Authorities—Passenger Brokers.
Ex Parte No. MC-89.....	Notice of Proposed Rulemaking Proceedings Regarding Transportation of Trailers.
No. MC-C-6829.....	Investigation of Limitation of Free Baggage Allowance.
No. MC-C-6829 (Sub-No. 1) ..	Limitation of Free Baggage Allowance—Reasonableness of \$80 Limitation.

FREIGHT FORWARDERS

Ex Parte No. 159* Security for the Protection of the Public as Provided
in Part IV of the Interstate Commerce Act, Not
Printed, Decided: Mar. 11, 1974.

COURT ACTIONS

The test of the validity of a particular administrative decision ultimately rests with the courts. While only a small percentage of Commission decisions are placed under judicial review, and fewer still are overturned, the court cases can and do have a significant impact on the course of regulatory policy. During the year, 306 cases in various stages of litigation were handled by our staff in the Federal courts. At the beginning of the fiscal year, 185 cases were pending, and 121 additional cases were instituted during the year. Concluded were 108 cases, with 198 left pending on June 30, 1974. Of the cases concluded, 12 were by the Supreme Court, 5 by courts of appeals, and 91 by district courts. A few of the more important cases are discussed below.

In connection with the reorganization of the Penn Central Transportation Co., *In re Penn Central Transportation Co., debtor*, F. Supp. (Bankruptcy N. 70-347, E.D. Pa.); the Commission prepared a report and order, and played an active role in the various proceedings. In other rail bankruptcy proceedings in the northeast, the Commission was an active participant in carrying out the provisions of the Regional Rail Reorganization Act of 1973, prior to the declaration by a three-judge court that the act was unconstitutional. *Connecticut General Insurance Co., et al., v. United States Railway Association*, F. Supp. (C. A. No. 74-189, E.D. Pa.). The Commission is continuing to closely monitor the various developments in connection with litigation involving that act.

Litigation in a number of cases mentioned in last year's report has been concluded or has moved into different stages. *Florida East Coast Ry. Co. v. United States*, 368 F. Supp. 1009 (M.D. Fla. 1973) was before the court on remand for resolution of substantive issues as directed by the Supreme Court in *United States v. Florida East Coast Ry. Co.*, 410 U.S. 224. The district court resolved all the substantive issues in favor of the Commission and sustained the Commission's incentive per diem rules which were designed to improve utilization of the available car supply. The case was again appealed to the Supreme Court which, after initially denying an application for a stay of the district court's judgment, summarily affirmed the lower court, U.S. . . . Simi-

larly, the court in *Ann Arbor R. Co. v. United States*, 368 F. Supp. 101 (E. D. Pa. 1973), sustained the Commission's order in Ex Parte No. 252 (Sub-No. 1), *Incentive Per Diem Charges—1968*, which extended the operative period from a 6-month to a year-round basis. An appeal of that decision is pending in the Supreme Court.

A challenge to the Commission's attempt to alleviate the boxcar shortage in one segment of the economy by its Car Service Order No. 1134 was pending at the beginning of the fiscal year. The court in *Oregon Pacific Industries, et al. v. United States*, 365 F. Supp. 609 (D. Ore. 1973), holding it to be a "rate" order rather than a car service order within the meaning of section 1(14)(15) of the act, set aside the Commission's service order. The Commission's appeal from that decision is pending before the Supreme Court.

In the area of rail line abandonments, the Supreme Court summarily affirmed the judgment of the lower court which sustained the Commission's promulgation of new abandonment rules in Ex Parte No. 274 (Sub-No. 1), *Abandonment of Railroad Lines, Commonwealth of Pennsylvania, et al. v. United States et al.*, 414 U.S. 1017 (1973).

Environmental considerations and compliance with the National Environmental Policy Act continued to be important areas where judicial scrutiny of Commission activities has been close. The several "SCRAP" cases continued to be points of litigation in this area of the law during the past fiscal year. In *Students Challenging Regulatory Agency Procedures v. United States*, 371 F. Supp. 1291 (D.D.C. 1974), the court, by a two to one decision, vacated Commission orders authorizing railroad rate increases on recyclable commodities and remanded the case to the Commission for further proceedings. The majority held that neither the procedures used in preparation of the involved environmental impact statement nor contents of the statement met NEPA standards. The dissenting judge, however, found that the Commission had substantially complied with those requirements. An appeal of that decision is pending before the Supreme Court. A companion case, *Students Challenging Regulatory Agency Procedures v. United States*, Civil Action No. 806-72 (D. D.C.), was dismissed with prejudice by stipulation of the parties.

The Court of Appeals in *Harlem Valley Transportation Association, et al. v. George M. Stafford and the Interstate Commerce Commission*, 500 F. 2d 328, (docket No 73-2496, 2d Cir. 1974), affirmed the decision of the district court which had granted a preliminary injunction requiring the Commission to determine at the outset of all rail abandonment proceedings whether an environmental impact statement is required and if so, to have its staff prepare such a statement prior to

any hearing. Another case involving rail line abandonments and environmental impact statements was a challenge to the Commission's authorization for the abandonment of a 12-mile rail line which had not been used during the preceding 2 years. The court in *State of New York v. United States, et al.*, F. Supp. (N.D. N.Y. 1973), remanded the case to the Commission with a requirement to report to the court as to whether or not an environmental impact statement was required or, alternatively, to advise the court that such a statement would be prepared.

The Commission's order in a rulemaking proceeding which provided for issuance of operating authority to any qualified motor carrier desiring to transport waste commodities as part of a recognized pollution control program was set aside by the court in *Chemical Leaman Tank Lines, et al. v. United States, et al.*, 368 F. Supp. 925 (D. Del 1973). The court upheld the power of the Commission to provide for issuance of a "Special Certificate" in a rulemaking proceeding, but remanded the case on the grounds that the Commission failed to fully comply with NEPA and that it should have given notice of the special waste products applications to competing carriers.

In the area of rates, the court in *Akron, Canton & Youngstown R. Co., et al. v. United States, et al.*, 370 F. Supp. 1231 (D. Md. 1974) sustained the Commission's authority under sections 6(6) and 405(b) of the Interstate Commerce Act to regulate service upon shippers by mail of certain published tariffs by railroads and freight forwarders, but found the Commission's new regulations on the subject invalid because their promulgation was not in compliance with the Administrative Procedure Act. In a rate case which was awaiting decision at the end of the last fiscal year, the Court of Appeals for the Second Circuit reversed the decision in *Ajayem Lumber Corp v. Penn Central Transp. Co.*, 350 F. Supp. 111 (E.D. N.Y. 1972), which had upheld the Commission's position that one railroad cannot prevent others from seeking a general rate increase by refusing to join in the request for an increase, *Ajayem Lumber Corp. v. Penn Central Transp. Co., et al.*, 487 F. 2d 179 (2d Cir. 1973). The matter is currently before the district court for determination of the damages question.

The Commission's authorization of plan I piggy-back movements, was sustained by the court in *Lone-Star Package Co., et al. v. United States, et al.*, F. Supp. (C.A. No. 4-355 N.D. Tex., 1974). The court found that plan I provides a lawful joint-rate through-route arrangement.

The Commission's attempt to have railroads submit income tax information in schedules attached to railroad annual report forms was rejected by the court in *Assn. of American Railroads v. United States, et al.*, 371 F. Supp. 114 (D.D.C. 1974). The court concluded that such informa-

tion was protected from public disclosure by the Internal Revenue Code, but left open the possibility of such information being acquired through confidential reports.

In *National Association of Motor Bus Owners et al. v. United States et al.*, 370 F. Supp. 408 (D.D.C. 1974), the Commission's promulgation of regulations restricting smoking on buses was upheld. Those regulations require separate seating for smokers and nonsmokers and restrict the number of seats in the smoking section to 20 percent of the vehicle's capacity.

The Commission participated as a defendant in *Lynch v. Public Service Commission of the State of Nevada*, 376 F. Supp. 1033 (D. Nev. 1974). In that case, the Nevada PSC had suspended a carrier's State licensing approval after the Commission withdrew its verification that the carrier was engaged in the transportation of nonregulated commodities. The court, in finding for the plaintiff, held certain Nevada statutes unconstitutional.

In *Arkansas-Best Freight System, Inc., et al. v. United States, et al.*, 364 F. Supp. 1239 (W.D. Ark. 1973), the district court set aside orders of the Commission which authorized the issuance of certificates of public convenience and necessity, and permanently enjoined the Commission from issuing those certificates. After the Commission's motion to amend the judgment was denied, an appeal was taken to the Supreme Court where the case is pending.

In *Florida Texas Freight, Inc., et al. v. United States, et al.*, 373 F. Supp. 479 (S.D. Fla. 1973), *aff'd on appeal*, U.S. (1974), the court affirmed the Commission's grant of a freight forwarder permit. In sustaining the Commission's action, the court reaffirmed the principle that unlawful operations performed under "color of right" cannot be considered evidence of unfitness.

The court in *C-Line, Inc., et al. v. United States*, 376 F. Supp. 1043 (D. R.I. 1974), sustained the Commission's orders denying a contract carrier application where the supporting shipper was a shipping association. The court rejected the argument that the association was one person and concluded that the Commission may determine when an association or corporation is a person for purposes of defining contract carriage. C-Line filed a notice of appeal to the Supreme Court.

LEGISLATION

Commission Proposals

During the fiscal year, the Commission submitted to the 93d Congress legislative recommendations in six major areas.

Loss and damage claims.—On July 10, 1973, we submitted two draft bills to the Congress which would enable the Commission more effectively to handle problems in the settlement of cargo loss and damage claims. The first of these draft bills would amend the Interstate Commerce Act and the Harter Act to authorize the Commission to adjudicate unresolved loss and damage claims. The legislative recommendation was introduced in the Senate as S. 2250.

The second proposal would authorize the Commission to prescribe security standards for protection of the public for loss or damage to property transported by carriers subject to parts I and III of the act. Specifically, it would authorize the Commission to adopt regulations requiring rail, express, and water carriers to maintain adequate insurance. S. 2249 was introduced to implement the Commission's recommendation.

No hearings were held on either S. 2249 or S. 2250.

Section 22 rates.—On July 10, 1973, the Commission submitted to the Congress a draft bill to amend section 22 of the Interstate Commerce Act to eliminate free or reduced rates for Government traffic, except in time or war or other national emergency and except in the transportation of commodities exempt from economic regulation under parts II or III of the act. S. 2251 was introduced to implement the Commission's recommendation, and was included in H.R. 5385 and H.R. 12891 upon which hearings were held in March 1974.

Conglomerates.—On August 9, 1973, we submitted a draft bill to amend the Interstate Commerce Act to grant additional authority to the Commission with respect to conglomerate holding companies involving carriers subject to the jurisdiction of the Commission, and noncarriers. The proposal was introduced in the Senate as S. 2460.

Financial forecasts.—On August 9, 1973, we submitted a draft bill to amend section 20(5) of the act to clarify the power of the Commission to inspect and copy records of carriers regulated by it, including such items

as carriers' financial forecasts. S. 2459 was introduced to implement the recommendation.

Freight forwarders.—On August 9, 1973, the Commission submitted a proposal to amend section 409(a) of the act to authorize freight forwarders to negotiate special contracts with railroads, and it was introduced in the Senate as S. 2461.

Exemption authority.—On August 9, 1973, we submitted to the Congress a draft bill which would amend sections 12(1), 204(a)(6), 304(a), and 403(a) of the Interstate Commerce Act, to enable the Commission to exempt certain transportation from regulation upon a finding that the regulation is not necessary in order to effectuate the National Transportation Policy and that regulation would serve no public purpose. S. 2458 was introduced to implement the Commission's recommendations.

Congressional Action on Commission Proposals

In March 1973, the Commission submitted to the first session of the 93d Congress a draft bill which would amend section 1(16) of the act to empower the Commission to direct one railroad to operate over the tracks of another when the latter is unable to transport essential traffic (87th annual report, p. 85). The draft proposal was introduced as S. 1925 and H.R. 5512, but later was substantially incorporated into the "Regional Rail Reorganization Act of 1973." That act became Public Law 93-236 on January 2, 1974, and the Commission's recommendation was enacted as section 601(e) of that law. On June 28, 1974, the Commission instituted a rulemaking proceeding in Ex Parte No. 293 (Sub-No. 3) to implement the amendment to section 1(16) of the act.

Commission Testimony on Other Proposals

Judicial review.—On July 19, 1973, the Commission testified on S. 663 before the Subcommittee on Improvement in Judicial Machinery of the Senate Committee on the Judiciary. This bill would amend title 28 of the United States Code regarding judicial review of Commission decisions. We pointed out that judicial review of Commission orders presently is conducted by three-judge district courts. Those decisions are reviewable by the Supreme Court on direct appeal.

This procedure, we stated, is cumbersome and inefficient, and the Commission endorsed the concept that our decisions should be reviewed by the courts of appeals. However, we objected to a feature of the legislation which could give the Attorney General responsibility for and con-

trol of the interests of the Government in court proceedings involving the Interstate Commerce Commission. We pointed out the problems that could result from this procedure and stated that the public interest would be served best by guaranteeing the Commission the right it presently has to defend its actions independent of the Department of Justice. We suggested an amendment to accomplish this and supported S. 663 with that amendment.

S. 663 was passed by the Senate November 16.

Deepwater ports.—On October 2, 1973, the Commission testified before the Special Joint Subcommittee on Deep Water Port Legislation of the Senate Committees on Commerce, Interior and Insular Affairs, and Public Works on S. 1751, the "Deepwater Port Facilities Act of 1973." The purpose of the legislation is to authorize and regulate the construction and operation of deep water port facilities off the coast of the United States.

The Commission outlined for the joint subcommittee our jurisdiction over pipelines pursuant to the Submerged Lands Act and part I of the Interstate Commerce Act. We stated that, while S. 1751 did not specifically provide that the Interstate Commerce Act shall apply to pipelines connecting with deepwater port facilities, certain provisions of the bill imply that is the intent of the legislation. We suggest that this point be clarified and that the bill be amended to specifically apply the provisions of the act to operations of the pipelines in question.

The legislation was redrafted and Special Subcommittee Working Paper No. 2 of the "Deepwater Port Act of 1974" specifically provides that transportation of oil through a pipeline and storage facility of a deepwater port is subject to provisions of the Interstate Commerce Act. On June 25, 1974, the Commission submitted its views on the working paper and expressed its approval of the legislation.

Freight car supply.—On October 9, 1973, the Commission appeared before the Subcommittee on Departmental Operations of the House Committee on Agriculture and summarized the freight car supply situation and actions taken to deal with car shortages. Because of those shortages the Commission instituted a number of emergency, short-range measures to alleviate the situation, including imposition of directives and embargoes. We detailed these actions for the subcommittee and outlined the formal proceedings pending before the Commission which sought to improve utilization of the car fleet on a permanent basis.

The energy crisis.—Our first congressional appearance during the fiscal year on an energy related matter was before the Senate Committee on Interior and Insular Affairs, November 8, 1973, when we gave our views on S. 2589, the "National Emergency Petroleum Act of 1973."

It would give the President emergency powers to combat the energy crisis. In our testimony we discussed utilization of energy under existing law by carriers regulated by the Commission and outlined procedures developed by us which permit motor and rail carriers to make more efficient use of energy. Portions of the legislation directly involved the statutory functions of the Commission and we suggested that the additional authority granted by these sections be delegated directly to us as an arm of the Congress, rather than through the President.

On November 14, 1973, the Commission testified before the House Committee on Interstate and Foreign Commerce on H.R. 11031 and H.R. 11202, identical bills similar to S. 2589 in that they would grant the President certain emergency powers to combat the energy crisis. Certain sections of that legislation directly affected the functions of the Interstate Commerce Commission and we detailed the existing situation with respect to energy use by carriers subject to our jurisdiction. We made a number of suggestions for revision of the legislation. Additionally, we pointed out the necessity of applying constraints to nonregulated carriers as well as regulated carriers, if fuel conserving measures were to be effective.

While a number of alternatives were considered, the Senate bill, S. 2589, was eventually passed by both bodies. Since the bill was passed by the House and the Senate in a different form, the legislation went to conference. The conference report was adopted by the Senate, February 19 and by the House, February 27, 1974, but the enrolled bill was vetoed by the President.

On January 30, 1974, the Commission testified again before the House Committee on Interstate and Foreign Commerce on energy problems of independent truckers. We outlined our actions in Ex Parte No. 301, in which we sought views of interested parties as to legislation which we might propose to Congress concerning energy problems; Special Permission Docket No. 74-1825 which provided a means by which increased fuels costs could be recouped expeditiously by affected carriers; Ex Parte No. 55 (Sub-No. 8) which concerned elimination of gateways; and Special Permission Docket No. 74-2000-M, in which we granted permission for the filing of motor carriers substituted tariffs having the effect of facilitating pooling of freight so that vehicles would be loaded to capacity. We also discussed our policy of scrutinizing motor carrier applications for additional operating rights to ascertain whether the proposal would make the most efficient use of fuel.

As an outgrowth of these hearings, legislation was introduced and reported in the House as H.J. Res. 893 which provided for advancing the effective date of our proceedings in Ex Parte MC 43 (Sub-No. 2),

Adjustment of Compensation for Equipment Leased by Motor Carriers of Property Because of Rising Fuel Costs. A similar bill was introduced in the Senate as S.J. Res. 185 which passed the Senate February 5, and the House on February 7, and became Public Law 93-249 February 8, 1974. It provided that the Commission's order in the Ex Parte MC 43 (Sub-No. 2) proceeding should become effective no later than February 15, 1974.

On March 7, 1974, we appeared before the Senate Committee on Commerce and discussed actions we had taken to blunt the effects of the fuel shortages on matters subject to our regulation. In addition to those measures outlined before the House Committee on Interstate and Foreign Commerce we discussed our Special Permission Docket No. 74-2525, issued February 8, which allowed motor carriers to file a schedule of surcharges to reflect increased fuel costs on 1 day's notice. We also detailed our revision of gateway regulations and announced institution of a rule-making proceeding to consider relaxing the regulations governing leasing of equipment for motor carriers of property. We also outlined possible legislative approaches to the energy problems and discussed impediments which stood in the way of improving the quality of service rendered by Amtrak.

On February 5, 1974, the Commission testified before the Senate Committee on Commerce on S. 2506, the "Oil and Gas Regulatory Reform Act of 1973." We outlined the authority over pipeline activities delegated to us by the Interstate Commerce Act and detailed the measures taken in enforcement of the mandates established by Congress. We opposed enactment of section 202 of the bill which would transfer our jurisdiction over pipelines to the Federal Power Commission. We discussed the numerous problems that would result, including the disparity of regulatory treatment among competing modes. We stated our position that if Congress finds a need for additional controls over pipeline operations, we should be the agency to administer them.

Regional Rail Reorganization Act

On November 15, 1973, the Commission testified before the Senate Committee on Commerce on four legislative proposals offering solutions to the financial and operating problems of the railroads in the northeast. We expressed the belief that the northeast rail system should be approached as a single unit, and we emphasized that the physical state of the railroads in the United States, particularly in the northeast, is such that a major rehabilitation and modernization will be essential if rail service is to become competitive with that of other modes.

The House bill, H.R. 9142, which had passed the House on November 8, 1973, passed the Senate with an amendment December 13, 1973. The President signed the enrolled bill on January 2, 1974 and the "Regional Rail Reorganization Act of 1973" became Public Law 93-236.

The new law established a United States Railway Association, a Rail Services Planning Office within the Interstate Commerce Commission, and a Consolidated Rail Corporation, each to play a significant role in the plan to restructure, revitalize, and operate rail services in the Northeast quadrant of the United States.

The United States Railway Association is an incorporated, nonprofit association with the status of a Government corporation of the District of Columbia. The Association is governed by an 11-member board of directors which includes among its membership the Chairman of the Interstate Commerce Commission. The power to prepare and implement the final system plan for the restructuring of rail service in the Northeast was delegated to the Association.

The Rail Services Planning Office (RSPO) was established within the Commission, to exist for a period of 5 years. The Office's duties include the study and evaluation of the preliminary report prepared by the Secretary of Transportation. For a further discussion of the Office's public functions, see page 15.

The Association then, taking into consideration the reports of the Secretary and RSPO will prepare a preliminary system plan. After affording an opportunity for interested persons to comment on the preliminary plan, the Board of Directors of the Association will approve a final system plan intended, to create, through a process of reorganization, a financially self-sustaining rail service system in the Northeast. The plan is to be submitted to the Commission, which then prepares its evaluation of the plan which is submitted to the Congress. The plan is deemed to be approved unless rejected by the Congress.

The Consolidated Rail Corporation has the status of a for-profit corporation and a common carrier by railroad under section 1(3) of the Interstate Commerce Act. The Corporation will operate the rail lines included in the final system plan.

Other provisions of the "Regional Rail Reorganization Act of 1973" concern local rail services, protective arrangements for employees, and delegation of emergency powers to the Commission under section 1(16) of the Interstate Commerce Act.

Barge Mixing Rule

On December 11, 1973, the Commission testified before the House Subcommittee on Transportation and Aeronautics on H.R. 9772, H.R.

9897, H.R. 10380, and S. 2267, legislation to expand the application of the exemption contained in section 303(b) of the Interstate Commerce Act by, among other things, abolishing the "no-mixing rule" and the three-commodity restriction. These changes were put into effect on a 3-year trial basis by Public Law 91-590 and were made permanent by this legislation. Basically, the Commission supported enactment of the proposal, and S. 2267 was passed by both Houses of Congress and became Public Law 93-201 December 27, 1973.

Oil Pipelines

On December 12, 1973, the Commission testified before the Special Subcommittee on Integrated Oil Operations of the Senate Committee on Interior and Insular Affairs. Our presentation outlined the historical background of the economic regulation of pipelines, the extent of our authority over pipelines, the market structure of pipeline transportation, our experience under the Hepburn Act of 1906, and concentration within the oil pipeline transportation industry. Additionally, we discussed the relative merits of separating oil production and refining from the business of transporting oil. We also supplied the subcommittee with data relating to operating and financial information for regulated pipeline carriers, and the percentage of vertically integrated oil firms.

Transportation of Recycled and Recyclable Commodities

On March 13, 1974, the Commission testified before the House Subcommittee on Transportation and Aeronautics on H.R. 6637, H.R. 7219, H.R. 7635, H.R. 7810, and H.R. 8253, legislation intended to promote the transportation and use of recycled and recyclable materials and to reduce the amount of unrecyclable solid waste materials in commerce. The Commission expressed its agreement that steps must be taken to end the profligate depletion of our natural resources. We supported provisions of the legislation which promote the Federal procurement of recycled or recyclable materials and pointed out that we had suggested such a provision in our report in Ex Parte No. 281, *Increased Freight Rates and Charges*, 1972, 341 ICC 288.

The bills would also direct this Commission and the Federal Maritime Commission to investigate and eliminate transportation rates, practices and procedures which discriminate against recycled materials in favor of virgin commodities. A presumption of discrimination would exist whenever it appeared a carrier's rate for recycled material was equal to or higher than the rate charged for the same transportation of a like quantity of a competing virgin commodity.

The Commission did not support enactment of these provisions of the legislation, stating they were unnecessary in light of Public Law 93-236, the "Regional Rail Reorganization Act." It contains a specific congressional mandate directing us to take steps to eliminate discrimination against recyclables. In response to that mandate the Commission instituted Ex Parte No. 306, *Implementation of Public Law 93-236—Freight Rates for Recyclables*, which contemplated expedited procedures for handling complaints against rates on recyclable commodities.

We pointed out the tremendous expense in evaluating every rate published for every recyclable and virgin commodity, and stated that this expenditure would be unnecessary since with our new procedures and with our existing regulatory authority, the Commission will be adequately equipped to deal with any problems of alleged discrimination concerning rates on recyclables.

We also discussed the reasons for our objections to the legislation's presumption of discrimination and the findings that certain existing Federal laws and policies have resulted in discrimination against recyclable commodities.

Transportation Improvement Act, Surface Transportation Act and Freight Car Legislation

On March 27, 1974, the Commission testified before the House Subcommittee on Transportation and Aeronautics and presented a detailed analysis of the Transportation Improvement Act of 1974 (TIA), the Surface Transportation Act of 1973 (STA), and freight car legislation. We explained our opposition to the "free entry" provisions and the overhaul of present standards for abandonment of rail lines contained in the TIA. We pointed out that, in general, these proposals were based on fallacious presuppositions. We also opposed enactment of certain portions of the STA and the TIA dealing with rates, revenue levels, and our suspension powers, and pointed out that some of these provisions are premature in view of the Commission's undertaking in Ex Parte Nos. 270 and 271. These proceedings include investigation of the complex questions and conflicts surrounding the rail structures and returns on investment.

Generally, we supported that section of the TIA which would eliminate free or reduced rates on Government traffic and pointed out that the Commission had submitted a similar recommendation to the Congress. Our proposal, however, would allow such rates during times of national emergency, and we expressed our opinion that this qualification should be contained in any legislation dealing with this subject.

The Commission also discussed provisions of the bills dealing with rate bureau practices. We agree that there is a need for some change in the regulation of rate bureaus, and we pointed out that in June 1973 we instituted a proceeding, Ex Parte No. 297, *Rate Bureau Investigation*. We also commented upon those sections of the TIA and STA which deal with uniform cost accounting in view of the Commission's recent activity in this area.

The Commission supported enactment of those portions of the legislation designed to relieve the surface transportation industry of discriminatory property taxes, and supported the purpose of the sections dealing with financial assistance to the railroads.

Corporate Disclosure

On April 23, 1974, the Commission appeared before the Subcommittee on Budgeting, Management, and Expenditures and the Subcommittee on Intergovernmental Relations of the Senate Committee on Government Operations at joint oversight hearings regarding corporate disclosure and the collection and tabulation of information from business firms by Federal agencies. We expressed our view that, as the regulator of the surface transportation industry, we should take into account financial relationships that could affect the ability of companies to furnish vitally needed transportation services.

The Commission discussed some of the difficulties encountered in obtaining requested information and stated that these problems emphasize the need for the Congress to enact the Commission's proposed legislation dealing with conglomerates, introduced as S. 2460. Enactment of that legislation would give us the authority not only to obtain necessary information but also to monitor and regulate practices engaged in by companies not currently subject to our jurisdiction which may have adverse effects on transportation companies. We further stated that enactment of our legislative recommendation embodied in S. 2459, which would grant us the authority to obtain financial forecasts from carriers would be helpful in this area.

We presented a brief summary of our jurisdiction over pipelines and, in response to the subcommittee's request, compiled a number of schedules with respect to the 15 largest class I rail carriers, 10 largest class I motor carriers and the 10 largest oil pipelines.

Securities Regulation

On May 16, 1974, the Commission testified before the Senate Subcommittee on Surface Transportation on S. 3356, the "Regulated

Carrier's Financial Stability Act." The bill would place the issuance of securities by railroads and motor carriers under the concurrent jurisdiction of this Commission and the Securities and Exchange Commission (SEC).

The Commission reviewed its authority under the Interstate Commerce Act to regulate issuance of securities and the statutory authority over carriers' issuances delegated to the SEC. We outlined the factors considered by the Commission in determining whether a carrier's application should be approved. We informed the committee that, in order to strengthen full disclosure for investor protection, we promulgated new rules and regulations pertaining to prospectuses for certain types of securities in Ex Parte No. 279, *Securities Regulations—Public Offerings*, 344 ICC 168 (1973).

The Commission supported the enactment of that portion of the legislation which would subject certain presently exempt investment companies to the concurrent regulatory jurisdiction of the SEC and this Commission. However, we viewed enactment of other sections of the legislation as unnecessary, in view of the Commission's proceeding to establish mandatory rules and regulations for prospectuses for public offerings.

We also discussed the significance of the Commission's legislative recommendation regarding conglomerate holding companies in the area of securities and presented the subcommittee with updated statistical data on these conglomerate activities and with additional examples of conduct by carriers which cause us concern. We stated that it is imperative that we have the authority to oversee actions of holding companies, including the issuance of securities, which we deem to be contrary to the public interest.

ADMINISTRATION

Employment

The employment ceiling of the Commission increased during fiscal 1974, from 1,800 to 1,895 authorized personnel. Also, the Rail Services Planning Office, formed in January 1974, employed 50 additional personnel for an overall Commission total of 1,945 employees.

As part of the recruitment thrust, Office of Proceedings attorneys accompanied regional managers to 20 law schools across the country. Their joint efforts resulted in a greater awareness among applicants of the Commission's work and, over the long run, should result in less turnover among Office of Proceedings attorneys. Outstanding accounting and transportation candidates from among recent college graduates also were selected for appointment as trainees in the Bureaus of Accounts, Operations, and Traffic. The bureaus, which until recently generally appointed experienced personnel from industry to technical positions, are benefiting from the high level of work which the trainees are producing. Continuing emphasis also was placed on recruitment of clerk-stenographers, clerk-typists and other clerical support.

Management Improvement

Major program objectives of the Commission are identified and defined by a program evaluation system. At the beginning of each fiscal year, major organizational units are given guidelines upon which to base establishment of their program objectives. Performance is monitored on a continual basis and, through a formal reporting system, quantitative program accomplishments are measured and evaluated in relation to the established objectives and past performance. The program evaluation system is designed to identify the need for and enable the taking of corrective action in problem areas involving duplication of effort, poor productivity, inefficient operations, and backlogs.

Since its establishment in 1964 the program evaluation system has been refined and improved, with emphasis being given in recent year to the use of productivity indices to gauge Commission performance in major program areas. The agency's success in use of measurement techniques

is evidenced by the fact that the joint Office of Management and Budget/Civil Service Commission/General Accounting Office team cited the Commission for its input into their project to measure and enhance productivity in the Federal sector. The Commission's program was used as an example for other agencies whose techniques were not as refined.

In recognition of the importance of developing the most meaningful and valid information upon which to base decisions concerning allocation and use of resources, serious consideration is being given to expanding our program evaluation system into the Administration's new concept of management in Government—termed Management By Objectives (MBO). Although the independent regulatory agencies have not been required to adopt MBO, the new concept could prove useful to the Commission, both as an effective management tool and for executive development. MBO is a flexible approach to management which will enable each bureau and office within the Commission to develop its own demonstrable, achievable and verifiable objectives for a better and more efficient operation. Most of the techniques and principles associated with the MBO concept, particularly the setting of goals, objectives and priorities and the monitoring of progress toward their achievement, are presently incorporated in our program evaluation system.

Savings under the Commission's cost reduction program amounted to \$242,900 in fiscal 1974. The largest portion of this amount (\$148,500) resulted from audit procedural changes instituted by the Bureau of Accounts for the conduct of field carrier examinations. These savings were achieved without diminishing the quality of work performed by the field auditor nor lowering auditing standards required by the Commission. Other savings during the year resulted from the following actions: paperwork reduction (\$40,000); automation of manual operations (\$18,300); and revisions in procedures (\$36,100).

Organizational Changes

Two organizational changes during the year will have substantial public impact. The Rail Services Planning Office was established in early 1974 by the Regional Rail Reorganization Act of 1973. The Office was created to protect the public interest in connection with restructuring of rail services in the northeastern and midwestern regions of the United States (see page 15).

On December 7, 1973, the Commission issued an order, Ex Parte No. 277 (Sub-No. 1), adopting regulations designed to increase the quality of intercity rail passenger service. The Passenger Service Branch was established in the Section of Railroads of the Bureau of Operations to

oversee the implementation of these regulations. The primary responsibilities of this branch are to review field staff compliance reports, process passenger complaints, determine action necessary to upgrade service, and act as intermediary in controversial cases.

Paperwork Reduction

Once again paperwork management played a significant role in the Commission's efforts to improve efficiency of operations. Some 113 forms were redesigned. Major improvements in use and processing resulted from the redesign of 18 of these forms. Savings of over \$40,000 were accomplished through these improvements, more than double the savings of the previous year.

The retention schedule for tariffs was revised during the year, reducing the time these files must be retained from 20 to 10 years. This made possible disposal of 4,662 cubic feet of tariffs held in storage.

Implementation of the new system for the identification and retirement of active dockets accounted for some 2,300 cubic feet of records being transferred to the Federal Records Center. This transfer, in addition to the major document purge of fiscal 1973, permitted nearly 2,500 square feet of storage space to be converted to office use. This enhancement of space usage represents a value of approximately \$10,000.

Commission Budget

Regular appropriations.—The President's budget for fiscal year 1975 includes \$43,300,000 and 2,130 positions for Commission operations. On March 28, 1974, the Commission appeared before the House Subcommittee on Transportation, Committee on Appropriations, with respect to its 1975 budget request. The House, on June 19, 1974, passed H.R. 15405, which provides appropriations for the Department of Transportation and Related Agencies for the fiscal year ending June 30, 1975. The bill, as passed by the House, includes \$43 million which provides for the 95 additional positions requested in the budget. The \$300,000 reduction pertains entirely to office space rental payments that the Commission must pay to the General Services Administration under Public Law 92-313. The committee indicated that the rates set by GSA were too high and reduced the budget requests of the departments and agencies accordingly. On June 20, 1974, H.R. 15405 was referred to the Senate Committee on Appropriations. On August 28, 1974, Public Law 93-391 was signed providing \$43 million to the Commission for fiscal year 1975. *Supplemental appropriation—fiscal year 1974*—on March 12, and April

11, 1974, the Commission appeared before the House and Senate Subcommittees on Transportation Appropriations, respectively, to request a supplemental appropriation for fiscal year 1974. The supplemental budget request included a total of 100 positions and \$5,150,000 to fund the operations of the Rail Services Planning Office, compliance with the National Environmental Policy Act of 1969, and the investigation of the railroad freight rate structure (Ex Parte No. 270). Public Law 93-305 was signed June 8, 1974, and the Commission received \$3,500,000 for "Salaries and expenses" and \$2,340,000 to cover pay increase costs.

APPENDIX A

Commission Organization

The major bureaus and offices of the Commission are listed below. Heads of each bureau or office report to the Chairman via the channels indicated on the organization chart.

STAFF OFFICIALS

Office of the Chairman—Public Information Office:

Public Information Officer.....	Warner L. Baylor
Press Information Officer.....	Edgar B. Hamilton, Jr.

Office of the Managing Director:

Managing Director.....	Robert L. Rebein
Assistant Managing Director.....	Joel E. Burns
Assistant to the Managing Director—	
Information Systems.....	John P. Kratzke
Attorney Advisor.....	S. Arnold Smith
Director of Personnel.....	Curtis F. Adams
Budget and Fiscal Officer.....	Dr. Bernita A. Joyce

Office of the Secretary/Congressional Relations:

Secretary.....	Robert L. Oswald
Assistant Secretary.....	Joseph M. Harrington

Office of the General Counsel:

General Counsel.....	Fritz R. Kahn
Deputy General Counsel.....	Arthur J. Cerra
Legislative Counsel.....	Larry T. Reida

Office of Proceedings:

Director.....	Robert J. Brooks
Associate Director.....	Edward J. Schack
Deputy Director, Section of Finance...	John L. Boyd, Jr.
Deputy Director, Section of Operating Rights.	J. Patterson King
Deputy Director, Section of Rates.....	Janice M. Rosenak

Rail Services Planning Office:

Director.....	George M. Chandler
Deputy Director.....	Alan M. Fitzwater

Office of Hearings:

Chief Administrative Law Judge.....	Robert C. Bamford
Assistant Chief Administrative Law Judge.	James E. Hopkins
Assistant Chief Administrative Law Judge.	William J. Bateman

Bureau of Accounts:

Director.....	John A. Grady
Assistant Director.....	James B. Thomas, Jr.

Bureau of Economics:

Director.....	Ernest R. Olson
Assistant Director.....	Robert G. Rhodes

Bureau of Enforcement:

Director.....	Bernard A. Gould
Assistant Director.....	Robert S. Turkington

Bureau of Operations:

Director.....	Robert D. Pfahler
Assistant Director.....	Lewis R. Teeple

Bureau of Traffic:

Director.....	Martin E. Foley
Assistant Director.....	

DIRECTORY OF INTERSTATE COMMERCE COMMISSION FIELD OFFICES

Regional headquarters.....	Robert L. Abare, Regional Manager, 150 Causeway St., 5th Floor, Boston, Mass. 02114.
Connecticut.....	324 U.S. Post Office, 135 High St., Hartford, Conn. 06101.
Maine.....	305 U.S. Post Office and Courthouse, 76 Pearl St., Portland, Maine 04112.
Massachusetts.....	150 Causeway St., 5th Floor, Boston, Mass. 02114.
New Hampshire.....	313 Federal Bldg., 55 Pleasant St., Concord, N.H. 03301.
New Jersey.....	9 Clinton St., Room 618, Newark, N.J. 07102. 204 Carroll Bldg., 428 East State St., Trenton, N.J. 08608.
New York.....	518 New Federal Bldg., Maiden Lane and Broadway, Albany, N.Y. 12207. 612 Federal Bldg., 111 West Huron St., Buffalo, N.Y. 14202. 26 Federal Plaza, Room 1807, New York, N.Y. 10007. O'Donnell Bldg., Room 104, 301 Erie Blvd., West, Syracuse, N.Y. 13202.

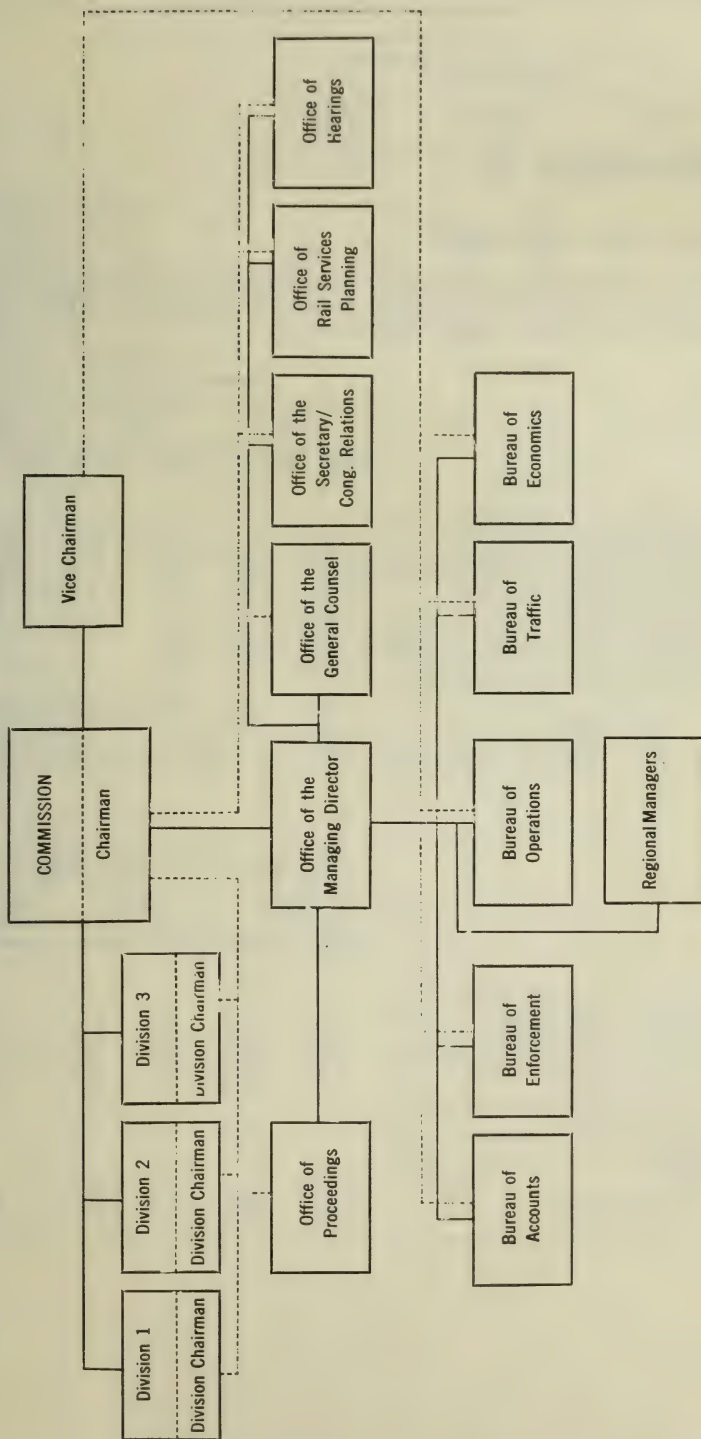
Rhode Island.....	187 Westminster St., Room 401, Providence, R.I. 02903.
Vermont.....	87 State St., Room 303, Montpelier, Vt. 05602. Mail address: Post Office Box 548.
Regional headquarters.....	Fred E. Cochran, Regional Manager, William J. Green, Jr., Federal Bldg., 600 Arch St., Room 3238, Philadelphia, Pa. 19106.
Delaware.....	See nearest ICC Field Office in New Jersey, Maryland, or Pennsylvania.
District of Columbia..	12th and Constitution Ave., NW., Washington, D.C. 20423.
Maryland.....	814-B Federal Bldg., Charles Center, 31 Hopkins Plaza, Baltimore, Md. 21201.
Ohio.....	5514-B Federal Bldg., 550 Main St., Cincinnati, Ohio 45202. 181 Federal Bldg., 1240 East 9th St., Cleveland, Ohio 44199. 220 Federal Bldg. and U.S. Courthouse, 85 Marconi Blvd., Columbus, Ohio 43215. 313 Federal Bldg., 234 Summit St., Toledo, Ohio 43604.
Pennsylvania.....	278 Federal Bldg., 228 Walnut St., Harrisburg, Pa. 17108. Mail address: Post Office Box 869. William J. Green, Jr., Federal Bldg., 600 Arch St., Room 3238, Philadelphia, Pa. 19106. 2111 Federal Bldg., 1000 Liberty Ave., Pittsburgh, Pa. 15222. 314 U.S. Post Office, North Washington Ave., and Linden St., Scranton, Pa. 18503.
Virginia.....	10-502 Federal Bldg., 400 North 8th St., Richmond, Va. 23240. 5104 F. B. Thomas Bldg., 215 Campbell Ave., SW., Roanoke, Va. 24011.
West Virginia.....	3108 Federal Bldg., 500 Quarrier St., Charleston, W. Va. 25301. 416 Old Post Office Bldg., 12th and Chapline St., Wheeling, W. Va. 26003.
Regional headquarters.....	James B. Weber, Regional Manager, 1252 West Peachtree St., NW., Room 300, Atlanta, Ga. 30309.

Alabama.....	2121 Bldg., Suite 1616, 2121 8th Ave., North, Birmingham, Ala. 35203. 801 Commerce Bldg., 118 North Royal St., Mobile, Ala. 36602. Mail address: Post Office Box 2112.
Florida.....	288 Federal Bldg., 400 West Bay St., Jacksonville, Fla. 32202. Mail address: Building Box No. 35008. Palm Coast II Bldg., Suite 208, 5255 NW. 87th Avenue, Miami, Fla. 33166.
Georgia.....	1252 West Peachtree St., N.W., Room 300, Atlanta, Ga. 30309.
Kentucky.....	Bakhaus Bldg., Room 324, 1500 West Main St., Lexington, Ky. 40505. 426 U.S. Post Office, 601 West Broadway, Louisville, Ky. 40202.
Mississippi.....	145 East Amite Bldg., Room 212, Jackson, Miss. 39201.
North Carolina.....	Room CC-516 Mart Office Bldg., 800 Briar Creek Rd., Charlotte, N.C. 28205. 624 Federal Bldg., 310 New Bern Ave., Raleigh, N.C. 27611.
South Carolina.....	1400 Building, Room 302, 1400 Pickens St., Columbia, S.C. 29201.
Tennessee.....	435 Federal Bldg., 167 North Main St., Memphis, Tenn. 38103.
Regional headquarters.....	Alfred E. Rathert, Regional Manager, Everett McKinley Dirksen Bldg., Room 1086, 219 South Dearborn St., Chicago, Ill. 60604.
Illinois.....	Everett McKinley Dirksen Bldg., Room 1086, 219 South Dearborn St., Chicago, Ill. 60604. 414 Leland Office Bldg., 527 East Capitol Ave., Springfield, Ill. 62701. Mail address: Post Office Box 2418.
Indiana.....	Century Bldg., 8th Floor, 36 South Pennsylvania St., Indianapolis, Ind. 46204. 345 West Wayne St., Room 204, Fort Wayne, Ind. 46802.
Michigan.....	1110 David Broderick Tower Bldg., 10 Witherell St., Detroit, Mich. 48226. 225 Federal Bldg., 325 West Allegan St., Lansing Mich. 48933.

Minnesota.....	414 Federal Bldg., and U.S. Courthouse, 110 South 4th St., Minneapolis, Minn. 55401.
North Dakota.....	Federal Bldg., and U.S. Post Office, 657 2d Ave. North, Fargo, N. Dak. 58102. Mail address: Post Office Box 2340.
South Dakota.....	Federal Bldg., Room 369, Pierre, S. Dak. 57501.
Wisconsin.....	139 West Wilson St., Room 202, Madison, Wis. 53703. 135 West Wells St., Room 807, Milwaukee, Wis. 53203.
Regional headquarters....	Harold M. Gregory, Regional Manager, 9A27 Fritz Garland Lanham Federal Bldg., 819 Taylor St., Fort Worth, Tex. 76102.
Arkansas.....	2519 Federal Bldg., Little Rock Ark. 72201.
Iowa.....	875 Federal Bldg., 210 Walnut St., Des Moines, Iowa 50309.
Kansas.....	234 Federal Bldg., Topeka, Kans. 66603. 501 Petroleum Bldg., 221 South Broadway, Wichita, Kans. 67202.
Louisiana.....	T9038 Federal Bldg., and U.S. Post Office, 701 Loyola Ave., New Orleans, La. 70113.
Missouri.....	600 Federal Bldg., 911 Walnut St., Kansas City, Mo. 64106. 210 North 12th St., Room 1465, St. Louis, Mo. 63101.
Nebraska.....	320 Federal Bldg., and U.S. Courthouse, 129 North 10th St., Lincoln, Nebr. 68508.
Oklahoma.....	240 Old U.S. Post Office and Courthouse, 215 Northwest 3d St., Oklahoma City, Okla. 73102.
Texas.....	1012 Herring Plaza, 317 East 3d St., Amarillo, Tex. 79101. Mail address: Herring Plaza Box H-4395. 1100 Commerce St., Room 13C12, Dallas, Tex. 75202. 9A27 Fritz Garland Lanham Federal Bldg., 819 Taylor St., Fort Worth, Tex. 76102. 8610 Federal Bldg. and U.S. Courthouse, 515 Rusk Ave., Houston, Tex. 77002. Mail address: Post Office Box 61212. 301 Broadway Bldg., Room 206, San An- tonio, Tex. 78205.

Regional headquarters.....	J. Warren McFarland, Regional Manager, 13001 Federal Bldg., 450 Golden Gate Ave., San Francisco, Calif. 94102. Mail address: Post Office Box 36004.
Alaska.....	G-31 Federal Bldg., Anchorage, Alaska 99510. Mail address: Post Office Box 1532.
Arizona.....	3427 Federal Bldg., 230 North 1st Ave., Phoenix, Ariz. 85025.
California.....	7708 Federal Bldg., 300 North Los Angeles St., Los Angeles, Calif. 99012. 13001 Federal Bldg., 450 Golden Gate Ave., San Francisco, Calif. 94102. Mail address: Post Office Box 36004.
Colorado.....	2022 Federal Bldg., 1961 Stout St., Denver, Colo. 80202.
Idaho.....	550 West Fort St., Boise, Idaho 83702. Mail address: Box 07.
Montana.....	222 U.S. Post Office, Billings, Mont. 59101.
Nevada.....	203 Federal Bldg., 705 North Plaza St., Carson City, Nev. 89701.
New Mexico.....	1106 Federal Office Bldg., 517 Gold Ave., SW., Albuquerque, N. Mex. 87101.
Oregon.....	114 Pioneer Courthouse, 555 SW. Yamhill St., Portland, Oreg. 97204.
Utah.....	5301 Federal Bldg., 125 South State St., Salt Lake City, Utah 84111.
Washington.....	6049 Federal Bldg., 909 1st Ave., Seattle, Washington 98104.
Wyoming.....	1006 Federal Bldg. and Post Office, 100 East B St., Casper, Wyo. 82601.

INTERSTATE COMMERCE COMMISSION



APPENDIX B

Commission Workload

TABLE 1.—Distribution by method of disposition of proceedings cases closed during fiscal year 1974 compared to fiscal years 1972 and 1973, and average time in months from date of filing to closing.

	Dismissed or discontinued					
	Fiscal year 1972		Fiscal year 1973		Fiscal year 1974	
	Cases	Months	Cases	Months	Cases	Months
Orally heard rail merger cases.....	1	67.0				
Rail finance cases (other than orally heard rail merger cases).....	40	11.2	18	10.0	30	10.8
Motor carrier finance cases.....	23	9.4	27	10.1	25	10.9
Motor carrier operating authority cases.....	786	8.8	644	7.5	729	7.9
Motor carrier complaint cases.....	527	3.9	313	4.6	350	4.0
Water carrier cases.....	4	5.0	4	9.8	5	6.8
Formal docket cases (rate complaints and investigations).....	46	5.4	73	13.1	49	8.9
Investigation and suspension cases (motor).....	926	1.4	994	1.4	796	1.6
Investigation and suspension cases (rail).....	67	3.3	105	3.8	64	3.0
All other cases.....	8	6.4	12	5.1	6	2.8
Total all types.....	2,428	4.7	2,190	4.4	2,054	4.7

	Decided by effective ALJ initial decision					
	Fiscal year 1972		Fiscal year 1973		Fiscal year 1974	
	Cases	Months	Cases	Months	Cases	Months
Orally heard rail merger cases.....	1	12.0	1	6.0		
Rail finance cases (other than orally heard rail merger cases).....	19	17.2	29	13.8	7	13.0
Motor carrier finance cases.....	31	16.6	26	14.2	26	15.5
Motor carrier operating authority cases.....	306	13.2	325	14.7	187	15.6
Motor carrier complaint cases.....	6	13.7	12	14.5	13	14.5
Water carrier cases.....	1	15.0	1	23.0	16	20.1
Formal docket cases (rate complaints and investigations).....	19	8.8	43	13.4	70	13.1
Investigation and suspension cases (motor).....			5	8.4		
Investigation and suspension cases (rail).....			3	11.3		
All other cases.....	1	16.0	3	13.0	1	15.0
Total all types.....	384	13.5	448	14.4	320	15.1

TABLE 1.—Distribution by method of disposition of proceedings cases closed during fiscal year 1974 compared to fiscal years 1972 and 1973, and average time in months from date of filing to closing—Continued

	Decided by final report after service of initial decision					
	Fiscal year 1972		Fiscal year 1973		Fiscal year 1974	
	Cases	Months	Cases	Months	Cases	Months
Orally heard rail merger cases.....	5	32.6	1	25.0	4	29.3
Rail finance cases (other than orally heard rail merger cases).....	32	21.7	28	15.5	10	24.5
Motor carrier finance cases.....	60	25.9	69	25.6	49	28.7
Motor carrier operating authority cases.....	602	20.7	444	20.9	275	22.9
Motor carrier complaint cases.....	38	19.4	28	20.5	23	23.6
Water carrier cases.....			2	29.0	1	38.0
Formal docket cases (rate complaints and investigations).....	68	18.6	98	23.1	83	22.9
Investigation and suspension cases (motor).....	1	20.0	3	25.7	1	13.0
Investigation and suspension cases (rail).....	1	13.0	3	17.0	1	29.0
All other cases.....	13	26.4	12	30.7	7	38.3
Total all types.....	820	21.0	688	21.9	454	23.9

	Decided by final report without a previous initial decision						Total cases		
	Fiscal year 1972		Fiscal year 1973		Fiscal year 1974		Fiscal year	Fiscal year	Fiscal year
	Cases	Months	Cases	Months	Cases	Months	1972	1973	1974
Orally heard rail merger cases.....							7	2	4
Rail finance cases (other than orally heard rail merger cases).....	447	4.2	377	4.6	239	4.4	538	452	286
Motor carrier finance cases.....	218	7.3	248	8.4	258	8.9	332	370	358
Motor carrier operating authority cases.....	4,313	8.4	4,658	8.7	4,377	9.1	6,007	6,071	5,568
Motor carrier complaint cases.....	9	4.2	9	9.1	9	8.7	580	362	395
Water carrier cases.....	10	6.4	6	6.2	12	8.9	15	13	34
Formal docket cases (rate complaints and investigations).....	31	19.6	6	6.8	8	13.5	164	220	210
Investigation and suspension cases (motor).....	72	6.9	106	7.2	81	6.2	999	1,108	878
Investigation and suspension cases (rail).....	39	7.3	33	10.3	36	8.3	107	144	101
All other cases.....	87	13.5	62	10.5	43	10.7	109	89	57
Total all types.....	5,226	8.1	5,505	8.4	5,063	8.8	8,858	8,831	7,891

Table 2.—Proceedings cases opened and closed during fiscal year 1974 as compared to prior fiscal years

	Fiscal year 1971	Fiscal year 1972	Fiscal year 1973	Fiscal year 1974
Pending beginning of year..	5,332	6,217	6,497	6,253
Openings during year.....	8,732	9,138	8,585	8,803
Closings during year.....	7,847	8,858	8,831	7,891
Pending end of year	6,217	6,497	6,253	7,165

TABLE 3.—Certificates of convenience and necessity issued for abandonment, construction, acquisition, and operation of lines of railroad under sec. 1(18) of the Interstate Commerce Act, as amended.

	July 1, 1972 through June 30, 1973		July 1, 1973 through June 30, 1974	
	Appli- cations	Miles	Appli- cations	Miles
I. Abandonment applications filed.....	266	4,436.3	139	2,246.5
Certificates of abandonment:				
Granted.....	198	2,428.3	24	528.5
Denied.....	5	153.5	1	16.7
Dismissed.....	9	113.5	5	57.7
Abandonments permitted since effective date of act.....		65,760.0		66,288.5
II. Construction applications filed.....	11	261.6	6	126.4
Granted.....	5	84.7	6	41.6
Denied.....	2	5.1		
Dismissed.....	1	105.0		
III. Acquisition and operation applications filed.....	12	284.4	17	1,489.7
Granted.....	8	126.0	10	1,412.2
Denied.....				
Dismissed.....			1	16.7

TABLE 4.—Informal proceedings

	1972	1973	1974
Applications for motor temporary authority:			
Filed.....	7,843	7,469	9,338
Disposed of.....	7,786	7,546	9,284
Pending at end of year.....	133	56	110
Petitions in applications for motor carrier temporary authority:			
Filed.....	1,021	894	1,292
Disposed.....	1,027	868	1,310
Pending at end of year.....	80	106	88
Applications to deviate from regular routes:			
Filed.....	232	197	205
Disposed of.....	228	195	215
Pending at end of year.....	28	30	20
Petitions in deviation filings:			
Filed.....	3	4	8
Disposed of.....	1	6	8
Pending at end of year.....	2	0	0
Proceedings to revoke operating rights without hearing:			
Instituted.....	733	487	521
Disposed of.....	770	513	527
Pending at end of year.....	114	88	82
Ex Parte No. MC-85 applications:			
Filed.....		50	22
Disposed of.....		50	22
Pending at end of year.....		0	0
Application for temporary authority to lease or control (motor):			
Filed.....	229	223	218
Disposed of.....	229	223	221
Pending at end of year.....	13	13	10
Transfer of operating authority if under \$300,000 combined revenues (motor):			
Filed.....	831	792	690
Disposed of.....	807	755	754
Pending at end of year.....	102	139	75

TABLE 5.—Tariffs and schedules, fiscal year 1974

	Received	Criticized	Rejected
Freight:			
Common carrier, tariffs:			
Rail	73,233	656	218
Motor	236,907	12,112	3,993
Water	4,679	130	47
Pipeline	1,537	6	6
Freight forwarder	12,414	211	89
International Ocean-Land-Inter-modal	31,599	243	403
Total	360,369	13,358	4,756
Contract carrier, schedules:			
Motor	20,768	1,272	482
Water		361	117
Total	20,768	1,633	599
Total freight	381,137	14,991	5,355
Passenger, tariffs:			
Common carrier:			
Rail	300	4	1
Motor	4,279	206	178
Water	47	7	
Total	4,626	217	179
Contract carrier: Motor	10		
Express, tariffs:			
Rail	369	1	
Motor	86	1	1
Total	455	2	1
Total passenger and express	5,091	219	180
Grand total	386,228	15,210	5,535

Note.—Also filed were 34,313 quotations or tenders under sec. 22 of the act for Government transportation of property or persons at reduced rates.

Applications requesting permission to change rates or other tariff provisions on less-than-statutory notice, or to depart from the tariff publishing rules, numbered 4,852. A total of 3,255 copies of contracts and amendments to existing contracts between motor contract carriers and shippers were filed, while 20,355 contracts and amendments between freight forwarders and motor common carriers were filed pursuant to sec. 409 of the act.

TABLE 6.—Fourth section actions

	Number
Applications:	
On hand beginning of year.....	25
Received during year.....	135
Total.....	160
Disposed of during year:	
Granted.....	¹ 135
Denied.....	4
Withdrawn.....	3
Dismissed.....	2
Total.....	144
Pending at end of year.....	16

¹ This includes applications that have been granted and denied in part.

Note.—Petitions of reconsideration of Board's action, 2; applications protested against granting of relief, 9; and relief withheld pending hearings in applications, 4.

TABLE 7.—Released rates board

	Number	Petitions for modifications of orders
Applications:		
On hand beginning of year.....	17	0
Received during the year.....	43	3
Total.....	60	3
Disposed of during the year:		
Granted.....	42	0
Denied.....	3	2
Granted and denied in part.....	1	0
Withdrawn.....	1	0
Total.....	47	2
Pending at end of year.....	13	1

TABLE 8.—Action taken on proposals considered for suspension

	Rail	Motor	Water	Freight for- warder	Express pipe- line	Number	Percent
Suspended in full.....	231	1,382	10	40	8	1,671	43.1
Suspended in part.....	1	139	0	1	0	141	3.6
Not suspended (permitted to become effective).....	160	1,096	58	44	13	1,371	35.4
Otherwise disposed of (schedules rejected, protest withdrawn, protested schedules canceled by carriers).....	60	588	10	34	2	694	17.9
Total.....	452	3,205	78	119	23	3,877	100.0

TABLE 9.—Bureau of Operations—Field program: railroads, motor carriers, water carriers, and freight forwarders

	Fiscal year 1974
Enforcement:	
Jurisdictional complaints received and handled.....	28,135
Jurisdictional complaints pending.....	3,864
Nonjurisdictional complaints received and handled.....	10,057
Nonjurisdictional complaints pending.....	666
Investigations with court actions expected.....	2,746
Other enforcement investigations.....	1,101
Motor-water-forwarder carrier compliance surveys.....	1,254
Railroad compliance surveys.....	338
Motor-water-forwarder:	
Operating authority:	
Permanent authority.....	6,550
Temporary authority.....	4,023
Emergency temporary authority.....	5,783
Rates and tariffs:	
Assets in tariff and rate publications.....	1,951
Tariff and schedule interpretations.....	7,305
Insurance compliance delinquencies.....	3,377
Railroads:	
Car service and other checks:	
Piggyback.....	200
Service order/car service rules.....	4,023
Agencies.....	2,530
Yards.....	685
Industries.....	1,013
Rail passenger service:	
Train checks.....	1,023
Station checks.....	387
Complaints received.....	1,056
Complaints processed.....	736
Complaints pending.....	320
Cooperative agreements with states:	
Exchange of information.....	7,941
Assistance/evidence furnished.....	349
Witness in state proceedings.....	64
Joint investigation or conference.....	477

TABLE 10.—ICC unit of the National Defense Executive Reserve: Status of membership and recruitment at close of fiscal year

	Fiscal year 1972			Fiscal year 1973			Fiscal year 1974		
NDER Group	On roll	Addi- tional nominees	Total	On roll	Addi- tional nominees	Total	On roll	Addi- tional nominees	Total
Rail.....	693	200	893	752	4	756	758	223	981
Motor.....	203	10	213	202	1	203	203	4	207
Water.....	61	3	64	61	0	61	59	0	59
Other.....	17	0	17	17	0	17	19	3	22

TABLE 11.—Car supply—Cars installed, retired, and ordered

	Fiscal year			
	1959	1964	1969	1974 (thru June 1, 1974)
Cars installed:				
Box.....	8,406	16,725	19,722	12,226
Refrigerator.....	1,682	5,736	4,386	1,912
Gondola.....	5,467	878	3,543	1,177
Hopper.....	10,474	22,338	12,128	3,665
Covered Hopper.....	3,334	6,855	4,963	9,579
Flat.....	1,920	3,481	3,770	2,284
Other.....	548	431	743	518
Total cars.....	31,831	56,444	49,255	31,361
Cars retired:				
Box.....	26,656	37,253	32,365	21,721
Refrigerator.....	6,493	4,943	6,141	¹ 443
Gondola.....	12,818	19,071	9,463	5,880
Hopper.....	29,916	20,413	25,246	16,964
Covered Hopper.....	192	282	2,305	2,401
Flat.....	1,218	1,033	1,149	¹ 3,285
Other.....	2,996	4,361	2,730	1,321
Total Cars.....	80,289	87,356	79,399	44,559
Calendar Year Class I				
	1959	1964	1969	1974 (5 months)
Cars ordered:				
Box.....	4,388	20,025	24,737	6,658
Refrigerator.....	995	8,945	4,712	892
Gondola.....	1,775	1,979	7,656	2,960
Hopper.....	3,816	23,526	14,526	6,867
Covered Hopper.....	1,061	8,652	6,193	1,178
Flat.....	73	4,394	3,287	1,296
Other.....	618	1,140	739	430
Total cars.....	12,726	68,661	61,850	20,281

¹ Negative retirement indicates increase in ownership in excess of new installations, resulting from reclassification or transfer of equipment, purchase or lease of used equipment, etc.

TABLE 12.—Ownership, serviceable ownership, and turnaround time, Class I railroads

	Fiscal year			
	1959	1964	1969	1974
Ownership:				
Plain box.....	663,546	522,454	391,897	323,078
Equipped box.....	49,492	81,108	154,064	175,603
Total box.....	713,038	603,562	545,961	498,681
Refrigerators.....	91,700	91,288	99,629	94,074
Gondolas.....	275,379	226,864	194,534	179,089
Hoppers.....	505,462	439,027	402,382	351,414
Covered hoppers.....	60,012	77,840	124,868	152,145
Flat.....	50,685	57,268	70,201	101,330
Others.....	78,985	62,293	55,161	38,839
Total cars.....	1,775,261	1,558,142	1,492,736	1,415,572
Serviceable cars:				
Plain box.....	614,317	488,867	363,964	293,784
Equipped box.....	46,059	78,560	146,310	162,526
Total box.....	660,376	567,427	510,274	456,310
Refrigerators.....	87,623	87,508	96,298	89,656
Gondolas.....	248,948	206,827	181,830	169,406
Hoppers.....	458,797	413,206	385,958	331,869
Covered hoppers.....	58,649	76,242	120,814	145,937
Flat.....	48,257	54,540	66,717	95,973
Others.....	75,610	59,407	52,437	37,305
Total cars.....	1,638,260	1,456,157	1,414,328	1,326,456
	Calendar year			
	1958	1963	1968	1973
Turnaround time-days:				
Box.....	18.95	19.37	21.60	22.56
Refrigerators.....	30.79	32.96	34.59	33.01
Gondolas.....	23.00	20.46	19.70	17.76
Hoppers.....	18.50	15.24	14.57	13.53
Covered hoppers.....	21.00	20.92	21.21	21.16
Flat.....	22.37	12.87	12.07	12.20
Average all cars.....	20.17	18.74	18.70	18.74

TABLE 13.—Enforcement activities, July 1, 1973 thru June 30, 1974

	Rail	Motor	Other	Total
Field investigations:				
On hand beginning of year.....	145	196	6	347
Received during year.....	65	815	0	880
Concluded during year.....	112	885	6	1003
Pending at end of year.....	98	126	0	224
Court Proceedings:				
On hand beginning of year.....	45	400	4	449
Commenced during year.....	65	620	3	688
Concluded during year.....	¹ 56	² 613	3	672
Pending at end of year.....	54	407	4	465
Civil claims settlements:				
On hand beginning of year.....	19	362	N/A	381
Commenced during year.....	55	436	N/A	491
Concluded during year.....	46	415	N/A	461
Pending at end of year.....	28	383	N/A	411
Commission proceedings:				
On hand beginning of year.....	18	180	6	204
Commenced during year.....	4	93	0	97
Concluded during year.....	5	100	0	105
Pending at end of year.....	17	173	6	196

¹ Includes 46 civil claims cases.

² Includes 342 civil claims cases resulting in 415 separate settlements.

TABLE 14.—Cases concluded or settled and monetary sanctions imposed

	Rail	Motor, water and forwarder	Total
Cases concluded in court.....	5	¹ 171	176
Amount imposed.....	\$130,000	\$701,803	\$831,803
Civil Claims settlements.....	40	415	455
Amount imposed.....	\$945,629	\$849,586	\$1,795,215
Total fines and forfeitures.....	45	586	631
Total amount imposed.....	\$1,075,629	\$1,551,389	\$2,627,018

¹ Includes 73 permanent injunction cases and 98 cases for monetary sanctions.

APPENDIX C

Publications

FINANCIAL AND TRAFFIC STATISTICS ¹

ANNUAL

- * Transport Statistics in the United States. Detailed data on traffic, operations, equipment, finances, and employment for carriers subject to the Interstate Commerce Act (rail carriers, motor carriers, water carriers, pipelines, freight forwarders, REA Express, Inc., and private car owners). Available by releases: Rail, first release, second release; motor, first release, second release, and third release; water carriers, pipelines, freight forwarders, and private car lines. (REA Express, Inc., and electric railways included with first release rail.)
- * Freight Commodity Statistics, Class I Railroads in the United States. Carloads and tons of revenue freight originated, terminated, and received from connecting carriers, and gross freight revenue.
- * Motor Carrier Freight Commodity Statistics, Class I Common and Contract Carriers of Property. Number of truckloads and tons of freight originated, terminated, and delivered to connecting carriers, and gross freight revenue.

Selected Statistics of Class III Motor Carriers of Property.

A-300 Wage Statistics of Class I Railroads in the United States—Calendar Year. Number of employees, service hours and compensation by occupation: Professional, clerical, and general; maintenance of way and structures; maintenance of equipment and stores; etc.

QUARTERLY

Large Class I Motor Carriers of Passengers Selected Earnings Data. Operating revenues, net income, revenue passengers carried, operating ratio and rate of return.

Large Class I Household Goods Carriers Selected Earnings Data. Operating revenues, net income, revenue tons hauled, operating ratio and rate of return.

* Indicates publications which may be purchased from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. Other publications obtained from the Section of Administrative Services, Interstate Commerce Commission, Washington, D.C. 20423 without charge.

¹ Prepared by the Bureau of Accounts.

Quarterly Freight Loss and Damage Claims. Statistical facts relative to losses sustained by the motor carrier industry from theft of goods in transit. Large Class I Motor Carriers of Property Selected Earnings Data. Operating revenues, net income, revenue tons hauled, operating ratio and rate of return.

Class I Line-Haul Railroads Selected Earnings Data. Railway operating revenues, net railway operating income, ordinary income, net income and rate of return.

SEMIANNUAL

First Issue: Cumulative data for period January-June; Second issue: Cumulative data for period, January-December ²

PUBLICATIONS

100—Financial and Operating Statistics of Class I Railroads in the United States. Operating revenues and expenses; selected income and balance sheet items; selected traffic, service and equipment statistics.

300—Wage Statistics of Class I Railroads in the United States. Number of employees, service hours, and compensation by occupation.

600—Transportation Revenue and Traffic of Large Pipeline Companies. Transportation revenue and number of barrels of oil originated and received from connections, present and preceding year.

650—Revenue and Traffic of Class A and B Water Carriers. Freight revenue, number of tons of revenue freight carried, revenue ton-miles, passenger revenue, and number of passengers carried.

750—Revenues, Expenses, Other Income, and Statistics of Class I Motor Carriers of Passengers. Passenger operating revenues (intercity, local and suburban, charter or special service), expenses, other income, miles of highway over which intercity regular route operations conducted, vehicle-miles operated by buses in intercity, local and suburban, charter or special service, number of revenue passengers carried by buses for each route operation, man-hours paid for, and compensation of drivers.

800—Revenues, Expenses, Other Income, and Statistics of Class I Motor Carriers of Property. Operating revenue (intercity, common and contract, local cartage, intercity transportation for other class I and class II motor carriers), expenses, other income, deductions and income taxes, truck- and tractor-miles operated in intercity freight service by common and contract carriers, tons of revenue freight transported in intercity service, operating ratio, report of manhours paid for, and compensation of drivers and helpers.

950—Revenues, Expenses, and Statistics of Freight Forwarders. Operating revenues, expenses, income items, net income, tons of freight received from shippers, and number of shipments received from shippers.

² Except No. 300: the first issue is for the month of June, and the second issue is for the month of December.

OTHER

M-350—Report of Railroad Employment, Class I Line-Haul Railroads.
Number of employees at middle of month, group totals. Issued monthly.

TRANSPORT ECONOMICS ³

Transport Economics. Recurring and special analyses of traffic, operations, equipment, finances, and employment of transportation industries, and related subjects. Issued quarterly.

³ Prepared by Bureau of Economics. Upon request to the Bureau, copies may be obtained free of charge until supply is exhausted.

APPENDIX D

Appropriations and Employment

The following statement shows average employment and total appropriations for the fiscal years 1948 to 1975 for activities included under the current appropriation title "Salaries and expenses."

Year	Appropriation	Average employment	Year	Appropriation	Average employment
1948.....	\$10,713,000	2,247.7	1962.....	22,075,000	2,399.7
1949.....	11,300,317	2,217.8	1963.....	23,502,800	2,412.8
1950.....	11,416,700	2,161.0	1964.....	24,670,000	2,407.8
1951.....	11,408,200	2,072.3	1965.....	26,715,000	2,399.1
1952.....	11,264,035	1,889.5	1966.....	27,540,000	2,375.8
1953.....	11,003,500	1,849.4	1967..... ¹	27,169,000	² 1,928.9
1954.....	11,284,000	1,837.9	1968.....	23,846,000	1,899.0
1955.....	11,679,655	1,859.1	1969.....	24,664,000	1,808.1
1956.....	12,896,000	1,902.2	1970.....	27,742,660	1,801.9
1957.....	14,879,696	2,090.1	1971.....	28,442,000	1,730.7
1958.....	17,412,375	2,237.8	1972.....	30,640,000	1,676.2
1959.....	18,747,800	2,268.1	1973.....	33,720,000	1,765.4
1960.....	19,650,000	2,343.6	1974.....	40,681,000	1,873.7
1961.....	21,451,500	2,386.1	1975.....	43,000,000	³ 2,056.9

¹ Excludes \$1,310,000 transferred to the Department of Transportation (Public Law 89-670) approved Oct. 15, 1966, and determination order of the Director of the Office of Management and Budget which authorized transfer of funds as of Apr. 1, 1967.

² Excludes average employment for those functions transferred to the Department of Transportation effective Apr. 1, 1967.

³ Estimated.

STATEMENT OF APPROPRIATIONS AND OBLIGATIONS FOR THE FISCAL YEAR ENDED JUNE 30, 1974

SALARIES AND EXPENSES

An Act (Public Law 93-98 approved Aug. 16, 1973) making appropriations for the Department of Transportation and related agencies for the fiscal year ending June 30, 1974, and for other purposes included the following: Salaries and expenses: For necessary expenses of the Interstate Commerce Commission, including services as authorized by 5 U.S.C. 3109, \$34,750,000, of which \$150,000 shall be available for valuation of pipelines: Provided, that Joint Board members and cooperating State commissioners may use Government transportation requests when traveling in connection with their duties as such.

An Act (Public Law 93-305, approved June 8, 1974) making supplemental appropriations for the fiscal year ending June 30, 1974, and for other purposes.

Salaries and expenses: For an additional amount for "Salaries and expenses", \$3,500,000, of which \$3,400,000 shall remain available until June 30, 1975, for necessary expenses of the Rail Services Planning Office to carry out the powers and duties authorized by the Regional Rail Reorganization Act of 1973.

"Salaries and expenses", \$2,340,000 Interstate Commerce Commission.

Status of fiscal year 1974 salaries and expenses account as of June 30, 1974:

Total appropriation-----	\$40,681,000
Total obligations-----	38,285,538
<hr/>	
Total Unobligated Balance-----	2,395,462
Rail Services Planning Office-----	2,390,435
<hr/>	
Unobligated Balance-----	5,027

FEES AND CHARGES

Status of receipt accounts as of June 30, 1974:

Registration and filing fees-----	\$3,504,513
Charges for administrative services-----	18,999
<hr/>	
Total receipts from fees and charges-----	3,523,512

APPENDIX E

Carrier Financial and Statistical Data

TABLE 1.—Carriers reporting to the commission

	Number
Carriers subject to Uniform Systems of Accounts and required to file annual and periodic reports as of June 30, 1974.	
Carriers:	
Railroads, class I ¹	74
Railroads, class II ²	258
Railroad switching and terminal companies, class I.....	29
Railroad switching and terminal companies, class II.....	136
Railroad lessor companies ³	136
Motor carriers, class I passenger ⁴	111
Motor carriers, class I property ⁵	830
Motor carriers, class II property ⁶	2,588
Oil pipelines.....	101
Water carriers.....	78
Maritime carriers.....	17
Electric railways.....	7
Freight forwarders.....	124
Protective service companies.....	6
Express companies.....	1
Stockyard companies ⁷	26
Holding companies (rail).....	7
Holding companies (water).....	2
Total.....	4,531
Carriers and organizations filing annual reports but not subject to prescribed Uniform Systems of Accounts as of June 30, 1974.	
Carriers and organizations:	
Car lines (companies which furnish cars for use on lines of railroads).....	137
Classes II and III motor carriers of passengers.....	869
Class III motor carriers of property.....	11,230
Water carriers (less than \$100,000 gross revenue).....	109
Freight forwarders (less than \$100,000 gross revenue).....	29
Holding companies (motor).....	69
Street electric lines.....	1
Rate bureaus and organizations.....	101
Total.....	12,545
Grand total.....	17,076

¹ Railroad companies having annual operating revenues in excess of \$5,000,000.

² Railroad companies having annual operating revenues less than \$5,000,000.

³ Includes 116 lessors to class I railroads and 20 lessors to class II railroads.

⁴ Motor carriers having annual operating revenues in excess of \$1,000,000. Includes 7 combination (property and passenger) carriers.

⁵ Motor carriers having annual operating revenues in excess of \$3,000,000. Revenue reclassification effective Jan. 1, 1974.)

⁶ Motor carriers having annual operating revenues less than \$3,000,000 but in excess of \$500,000. (Revenue reclassification effective Jan. 1, 1974.)

⁷ Includes 10 stockyard company lessors.

TABLE 2.—Recapitulation of preliminary 1973 operating revenues, net investment and taxes

[Dollars in thousands]

Kind of carrier	Number of carriers represented ¹	Operating revenues	Net investment ²	Taxes	
				Income taxes on ordinary income ³	All other taxes
Railroads—class I line haul.....	70	\$14,989,573	\$27,699,173	\$130,326	\$1,240,910
Motor carriers of property—class I intercity.....	1,576	16,477,830	3,565,290	265,717	1,012,195
Motor carriers of passengers—class I intercity.....	77	804,962	418,069	29,159	58,983
Water carriers by inland and coastal waterways—class A and class B.....	77	445,261	391,589	9,643	6,982
Pipelines.....	100	1,445,826	4,403,623	141,594	99,701
REA Express, Inc.....	1	263,686	—10,134	1,827	22,340
Total.....	1,901	34,427,138	36,467,610	578,266	2,441,111
Percentage distribution					
Railroads—class I line haul.....	3.7	43.5	76.0	22.6	50.8
Motor carriers of property—class I intercity.....	82.9	47.9	9.8	46.0	41.5
Motor carriers of passengers—class I intercity.....	4.1	2.3	1.1	5.1	2.4
Water carriers by inland and coastal waterways—class A and class B.....	4.1	1.3	1.1	1.7	.3
Pipelines.....	5.2	4.2	12.0	24.5	4.1
REA Express, Inc.....	.0	.8	.0	.1	.9
Total.....	100.0	100.0	100.0	100.0	100.0

¹ Carriers for which preliminary financial and statistical data were available.

² Net investment in carrier transportation or operating property and equipment plus working capital as of Dec. 31, 1973.

³ Railroads, pipelines, and REA Express, Inc., Federal income taxes only, all other carriers include Federal and State income taxes.

TABLE 3.—Intercity ton-miles, public and private, by mode of transportation, 1973 ¹ and 1972

Mode of transportation	1973 (millions)	1972 (millions)	Percent change	Percent of grand total	
				1973	1972
1. Railroads and electric railways, excluding express and mail.....	857,600	782,778	9.6	38.44	37.80
2. Motor vehicles.....	505,000	470,000	7.4	22.64	22.70
3. Inland waterways including Great Lakes.....	357,500	338,693	5.6	16.02	16.35
4. Pipelines.....	507,000	475,800	6.6	22.72	22.98
5. Airways (domestic revenue service) including express mail.....	3,943	3,658	7.8	.18	.17
Grand total.....	2,231,043	2,070,929	7.7	100.00	100.00

¹ Data for 1973 are preliminary.

Sources (numbers below same as items in table): 1. Reports to the Interstate Commerce Commission (ICC); 2. Based on data obtained from the Federal Highway Administration, Department of Transportation; 3. Reported by the Corps of Engineers, Department of the Army. Only ton-miles in domestic waters are included; 4. Estimated by using reports to the ICC; and 5. Based on statistics obtained from the Civil Aeronautics Board.

TABLE 4.—Federally regulated and total intercity ton-miles, 1972, by mode of transportation

Mode of transportation	Federally regulated		Not federally regulated		Total	
	Ton-miles (billions)	Percent	Ton-miles (billions)	Percent	Ton-miles (billions)	Percent
Rail.....	782.8	100.0	0	0	782.8	100.0
Motor.....	198.0	42.1	272.0	57.9	470.0	100.0
Water ¹	46.3	7.7	557.2	92.3	603.5	100.0
Pipelines.....	402.2	84.5	73.6	15.5	475.8	100.0
Air ²	3.7	100.0	0	0	3.7	100.0
Total.....	1,433.0	61.3	902.8	38.7	2,335.8	100.0

¹ Federally regulated ton-miles include only regulated traffic carried by regulated water carriers. All exempt traffic is excluded. The separation was made from data supplied by the Corps of Engineers, Department of the Army. The total water carrier data include deep sea, coastwise and intercoastal service.

² Air ton-mile data are supplied by the Civil Aeronautics Board.

TABLE 5.—Class I line-haul railroads and their lessor subsidiaries shareholders' equity, long-term debt, and dividends

[Dollars in thousands]

Item	1971	1972	1973 ¹
1. Shareholders' equity:			
a. Capital stock.....	\$6,196,647	\$5,726,334	\$5,717,444
b. Capital surplus.....	3,030,398	3,486,506	3,684,677
c. Retained income.....	9,195,691	8,760,790	8,769,961
d. Total equity.....	18,422,736	17,973,630	18,172,082
2. Long-term debt.....	11,184,761	11,119,042	11,172,952
3. Total equity and debt.....	29,607,497	29,092,672	29,345,034
4. Ratio of debt to equity (percent).....	37.78	38.22	38.07
5. Amount of dividends: ²			
a. Cash.....	789,778	500,162	456,945
b. Stock.....	2,435	2,556	.....

¹ Preliminary.

² Includes figures for lessors and operating railroads without excluding duplications on account of intercorporate payments.

TABLE 6.—Class I line-haul railroads condensed income statement, financial ratios, and employee data

[Dollars in thousands]

Item	1971	1972	1973 ¹
1. Number of carriers represented.	71	71	70
CONDENSED INCOME STATEMENT			
2. Operating revenues:			
a. Freight.....	\$11,786,431	\$12,570,326	\$13,770,734
b. Passenger.....	380,323	406,292	442,023
c. Total operating revenues	12,790,311	13,584,588	14,989,573
3. Total operating expenses.....	10,234,784	10,854,311	11,899,360
4. Railway tax accruals ²	1,100,204	1,159,815	1,371,236
5. Rent income and rents payable—Net.....	—852,172	—889,859	—1,021,335
6. Net railway operating income...	603,152	680,603	697,642
7. Ordinary income.....	294,542	343,642	400,958
8. Extraordinary and prior period items—Net ³	—686,131	—100,640	49,880
9. Net income.....	—391,589	243,001	450,838
NET INVESTMENT AND EQUITY			
10. Net investment in transportation property and equipment plus working capital.....	27,818,041	27,383,709	27,699,173
11. Shareholders' equity.....	16,715,752	16,248,451	16,422,385
FINANCIAL RATIOS (PERCENT)			
12. Operating ratio (L. 3÷L. 2).....	80.02	79.90	79.38
13. Return on net investment: (L. 6÷L. 10).....	2.17	2.49	2.52
14. Return on equity:			
a. Ordinary income basis (L. 7÷L. 11).....	1.76	2.11	2.44
b. Net income basis (L. 9÷L. 11).....		1.50	2.75
EMPLOYEE DATA			
15. Average number.....	544,497	527,235	524,422
16. Compensation:			
a. Total.....	\$5,895,123	\$6,434,658	\$7,134,029
b. Per hour paid for.....	4.519	5.034	5.541

¹ Preliminary.

² Includes payroll taxes and all other taxes, except Federal income taxes on extraordinary and prior period items. Federal income taxes on ordinary income included for 1971, 1972 and 1973 are \$130,326; \$107,681; and \$113,325 (thousands).

³ Includes Federal income taxes on extraordinary and prior period items.

TABLE 7.—Class I line-haul railroads current assets and current liabilities as of December 31, 1971 and 1972

[Dollars in thousands]

	1972 ¹ amount	Percent of change	1973 ² amount	Percent of change
Total current assets.....	\$3,702,589	+1.2	\$4,156,128	+12.2
Cash and temporary cash investments.....	1,025,424	-16.0	1,291,951	+26.0
Materials and supplies.....	544,047	-2.2	594,702	+9.3
Total current liabilities.....	3,062,560	+1.3	3,309,202	+8.1
Net working capital:				
Including materials and supplies.....	640,029	+1.1	846,926	+32.3
Excluding materials and supplies.....	95,982	+25.5	252,224	+162.8
Ratios:				
Current assets to current liabilities:				
Including materials and supplies.....	1.21		1.26	
Excluding materials and supplies.....	1.03		1.08	
Cash and temporary cash investments to current liabilities.....	.33		.36	

¹ Revised.

² Preliminary.

TABLE 8.—Refrigerator car lines owned or controlled by railroads condensed income statement, financial ratios, and employee data

[Dollars in thousands]

Item	1971	1972	1973 ¹
1. Number of companies represented.....	7	6	6
CONDENSED INCOME STATEMENT			
2. Operating revenues.....	\$192,177	\$196,762	\$202,150
3. Operating expenses.....	128,870	129,666	135,009
4. Income taxes.....	743	1,459	2,534
5. Car line operating income.....	17,150	18,466	15,390
6. Ordinary income.....	4,053	4,956	4,478
7. Extraordinary and prior period items—net ²	-1,717	-155	-23
8. Net income.....	2,336	4,801	4,455
NET INVESTMENT AND EQUITY			
9. Net investment in cars and protective service property plus working capital.....	438,962	422,317	387,489
10. Shareholders' equity.....	258,377	257,871	248,875
FINANCIAL RATIOS (PERCENT)			
11. Operating ratio (L. 3÷L. 2).....	67.06	65.90	66.79
12. Return on net investment (L. 5÷L. 9).....	3.91	4.37	3.97
13. Return on equity (L. 8÷L. 10).....	.90	1.86	1.79
EMPLOYEE DATA			
14. Average number.....	5,049	4,855	4,557
15. Compensation.....	\$49,158	\$54,193	\$55,988

¹ Preliminary.

² Includes Federal income taxes on extraordinary and prior period items.

TABLE 9.—Nonrailroad controlled private car-owners,¹ revenues and selected statistics

[Dollars in thousands]

Item	1971	1972	1973 ²
1. Revenue.....	\$558,006	\$669,910	\$742,649
2. Miles made by owned cars.....	4,828,053	5,813,584	6,360,024
3. Cars owned at close of year:			
a. Refrigerator.....	11,662	11,347	10,321
b. Petroleum tank.....	76,014	75,387	75,851
c. Other tank.....	74,548	72,619	73,687
d. Other cars.....	176,899	187,327	197,215
e. Total.....	339,123	346,680	357,074

¹ Confined to owners of 10 or more cars. Does not include railroad owned or controlled car lines.

² Preliminary.

TABLE 10.—Class I intercity motor carriers of property condensed income statement, financial ratios, and employee data

[Dollar in thousands]

Item	1971	1972	1973 ¹
1. Number of carriers represented.	1,355	1,525	1,576
CONDENSED INCOME STATEMENT			
2. Operating revenues:			
a. Freight-intercity-common carrier.....	\$11,879,999	\$13,564,009	\$14,977,172
b. Freight-intercity-contract carrier.....	404,386	531,802	491,869
c. Freight-local cartage.....	503,861	625,714	704,346
d. Intercity transportation for other class I and class II motor carriers..	102,306	135,191	144,968
e. Other operating revenue.....	120,685	137,516	159,475
f. Total operating revenues.....	13,011,237	14,994,232	16,477,830
3. Operating expenses.....	12,237,704	14,156,045	15,612,325
4. Lease of distinct operating unit—net.....	—1,027	—1,363	16
5. Net carrier operating income.....	772,506	836,825	865,521
6. Other income and miscellaneous deductions from income—net.....	—80,386	—73,685	—116,729
7. Income taxes on ordinary income ²	283,331	303,520	265,717
8. Ordinary income.....	408,789	459,620	483,075
9. Extraordinary and prior period items—net ³	903	—3,161	12,207
10. Net income.....	409,692	456,459	495,282
NET INVESTMENT AND EQUITY			
11. Net investment in carrier operating property and equipment, plus working capital....	2,849,317	3,275,685	3,565,290
12. Shareholders' and proprietors' equity.....	2,585,239	3,000,859	3,170,349
FINANCIAL RATIOS (PERCENT)			
13. Operating ratio (L. 3÷L. 2f)....	94.05	94.41	94.75
14. Return on net investment (L. 5—L. 7÷L. 11).....	17.17	16.28	16.82
15. Return on equity (L. 10÷L. 12).....	15.85	15.21	15.62
EMPLOYEE DATA			
17. Average number.....	506,765	542,153	581,369
18. Compensation.....	\$5,675,899	\$6,665,998	\$7,348,591

¹ Preliminary.

² Does not include income taxes applicable to sole proprietorships, partnerships, and corporations that have elected to be taxed under sec. 1372(a) of the Internal Revenue Code, also does not include incometaxes on extraordinary and prior period items.

³ Includes income taxes on extraordinary and prior period items.

TABLE 11.—Class I intercity motor carriers of passengers condensed income statement, financial ratios, and employee data

[Dollars in thousands]

Item	1971	1972	1973 ¹
1. Number of carriers represented.....	71	74	77
CONDENSED INCOME STATEMENT			
2. Operating revenues:			
a. Passenger intercity schedules.....	\$540,104	\$540,303	\$558,226
b. Local and suburban schedules.....	12,634	11,730	11,810
c. Charter or special service.....	85,459	95,224	102,484
d. Other operating revenues.....	120,164	128,064	132,442
e. Total operating revenues.....	758,361	775,321	804,962
3. Operating expenses.....	664,353	689,596	726,281
4. Lease of carrier property—net.....	—20	—225	—311
5. Net carrier operating income.....	93,988	85,500	78,370
6. Other income and income deductions—net.....	9,004	7,566	10,685
7. Income taxes on ordinary income ²	38,498	34,118	29,159
8. Ordinary income.....	64,494	58,948	59,896
9. Extraordinary and prior period items—net ³	33	—14	—9
10. Net income.....	64,527	58,934	59,887
NET INVESTMENT AND EQUITY			
11. Net investment in carrier operating property and equipment, plus working capital.....	435,225	412,221	418,069
12. Shareholders' and proprietors' equity.....	414,547	389,116	399,927
FINANCIAL RATIOS (PERCENT)			
13. Operating ratio (L. 3÷L. 2e).....	87.60	88.94	90.23
14. Return on net investment (L. 5—L. 7÷L. 11).....	12.75	12.46	11.77
15. Return on equity (L. 10÷L. 12).....	15.57	15.15	14.97
EMPLOYEE DATA			
16. Average number.....	34,731	34,147	33,514
17. Compensation.....	\$333,887	\$343,231	\$359,884

¹ Preliminary.

² Does not include income taxes applicable to sole proprietorships, partnerships, and corporations that have elected to be taxed under sec. 1372(a) of the Internal Revenue Code, also does not include income taxes on extraordinary and prior period items.

³ Includes income taxes on extraordinary and prior period items.

TABLE 12.—Classes A and B water carriers by inland and coastal waterways, condensed income statement, financial ratios, and employee data

[Dollars in thousands]

Item	1971	1972	1973 ¹
1. Number of carriers represented	77	79	77
CONDENSED INCOME STATEMENT			
2. Waterline operating revenues:			
a. Line service—freight	\$306,388	\$330,531	\$345,557
b. Line service—passenger	10,155	10,985	18,148
c. Line service—other	12,256	7,718	16,198
d. Other operating revenue	3,042	5,446	2,849
e. Revenue from terminal operations	28,855	30,706	35,448
f. Rent and motor carrier revenue	33,323	31,131	27,061
g. Total waterline operating revenues	394,019	416,517	445,261
3. Waterline operating expenses	348,013	370,321	395,320
4. Net revenue from waterline operations	46,006	46,196	49,891
5. Income taxes on ordinary income ²	14,939	14,759	9,643
6. Ordinary income	28,027	30,764	34,566
7. Extraordinary and prior period items—net ³	—650	—7,066	—395
8. Net income	27,377	23,698	34,171
9. Net investment in transportation property plus working capital	316,061	363,214	391,589
10. Shareholders' equity	285,364	297,805	333,722
FINANCIAL RATIOS (PERCENT)			
11. Operating ratio (L. 3÷L. 2g)	88.32	88.91	88.80
12. Return on net investment (L. 4—L. 5÷L. 9)	9.83	10.37	10.28
13. Return on equity (L. 8÷L. 10)	9.59	7.96	10.24
EMPLOYEE DATA			
14. Average number	8,431	29,576	8,349
15. Compensation	\$85,025	\$134,609	\$92,584

¹ Preliminary.

² Does not include income taxes on extraordinary and prior period items.

³ Includes income taxes on extraordinary and prior period items.

TABLE 13.—Maritime carriers condensed income statement, financial ratios, and employee data

[Dollars in thousands]

Item	1971	1972	1973 ¹
1. Number of carriers represented.....	18	17	17
CONDENSED INCOME STATEMENT			
2. Waterline operating revenues:			
a. Coastwise and intercoastal service.....	\$82,813	\$108,281	\$152,042
b. Charter revenue.....	60,866	56,274	56,576
c. Total vessel operating.....	681,075	810,640	1,008,265
d. Total waterline operating revenues.....	748,974	884,853	1,087,249
3. Total waterline operating expenses.....	728,460	847,044	1,083,997
4. Gross profit from shipping operations.....	20,514	37,809	3,252
5. Federal income taxes on ordinary income ²	-7,730	-4,492	-22,118
6. Ordinary income.....	10,716	32,287	12,786
7. Extraordinary and prior period items—net ³	-1,427	-3,244	101
8. Net income.....	9,289	29,043	12,685
9. Net investment in transportation property and equipment plus working capital.....	654,280	669,959	777,621
10. Shareholders' equity.....	479,730	539,051	661,890
FINANCIAL RATIOS (PERCENT)			
11. Operating ratio (L. 3÷L. 2d).....	97.26	95.73	99.70
12. Return on net investment (L. 4—L. 5÷L. 9).....	4.32	6.31	3.26
13. Return on equity (L. 8÷L. 10).....	1.94	5.39	1.92
EMPLOYEE DATA			
14. Average number.....	10,662	10,058	8,835
15. Compensation.....	\$125,679	\$141,214	\$149,123

¹ Preliminary.

² Does not include Federal income taxes on extraordinary and prior period items.

³ Includes Federal income taxes on extraordinary and prior period items.

TABLE 14.—Class A freight forwarders condensed income statement, financial ratios, and employee data

[Dollars in thousands]

Item	1971	1972	1973 ¹
1. Number of forwarders represented...	74	91	108
CONDENSED INCOME STATEMENT			
2. Operating revenues:			
a. Transportation revenues.....	\$587,338	\$727,703	\$966,342
b. Transportation purchased (debit):			
1. Railroad.....	160,481	168,784	184,431
2. Motor.....	87,643	89,619	104,810
3. Water.....	13,668	19,568	43,227
4. Pickup, delivery, and transfer.....	99,872	151,796	193,145
5. Other.....	18,194	60,342	136,698
6. Total transportation purchased.....	379,858	490,109	655,609
c. Operating revenues.....	216,117	252,718	325,698
3. Operating expenses.....	201,525	233,801	317,707
4. Net revenue from forwarder operations.....	14,592	18,918	26,324
5. Income taxes on ordinary income ² ...	6,675	7,817	10,139
6. Ordinary income.....	6,600	8,481	9,093
7. Extraordinary and prior period items—net ³	-1,285	-597	4,280
8. Net income.....	5,315	7,884	13,370
NET INVESTMENT AND EQUITY			
9. Net investment in transportation property plus working capital.....	38,761	48,507	67,252
10. Shareholders' equity.....	24,977	53,198	57,255
FINANCIAL RATIOS (PERCENT)			
11. Operating ratio (L. 3÷L. 2c).....	93.25	92.51	97.55
12. Return on net investment (L. 4—L. 5÷L. 9).....	20.43	22.89	24.07
13. Return on equity (L. 8÷L. 10).....	21.28	14.82	23.35
EMPLOYEE DATA			
14. Average number.....	9,028	9,485	11,641
15. Compensation.....	\$82,823	\$97,782	\$123,261

¹ Preliminary.

² Does not include income taxes on extraordinary and prior period items.

³ Includes income taxes on extraordinary and prior period items.

TABLE 15.—Pipeline companies ¹ condensed income statement, financial ratios, and employee data

[Dollars in thousands]

Item	1971	1972	1973 ²
1. Number of companies represented	99	99	100
CONDENSED INCOME STATEMENT			
2. Operating revenues	\$1,249,299	\$1,337,861	\$1,445,826
3. Operating expenses	712,178	780,162	843,816
4. Net carrier operating income	537,121	557,699	602,010
5. Federal income taxes on ordinary income ³	134,951	127,284	141,594
6. Ordinary income	319,557	323,908	364,849
7. Extraordinary and prior period items—net ⁴	—5,997	7,792	10,465
8. Net income	313,560	331,700	375,314
NET INVESTMENT AND EQUITY			
9. Net investment in carrier property plus working capital	4,016,132	4,341,695	4,403,623
10. Shareholders' equity	1,915,841	2,031,498	2,159,758
FINANCIAL RATIOS (PERCENT)			
11. Operating ratio (L. 3÷L. 2)	57.01	58.31	58.36
12. Return on net investment (L. 4—L. 5÷L. 9)	10.01	9.91	10.46
13. Return on equity (L. 8÷L. 10) ..	16.37	16.33	17.38
EMPLOYEE DATA			
14. Average number	14,791	14,814	14,745
15. Compensation	\$171,839	\$183,691	\$190,979

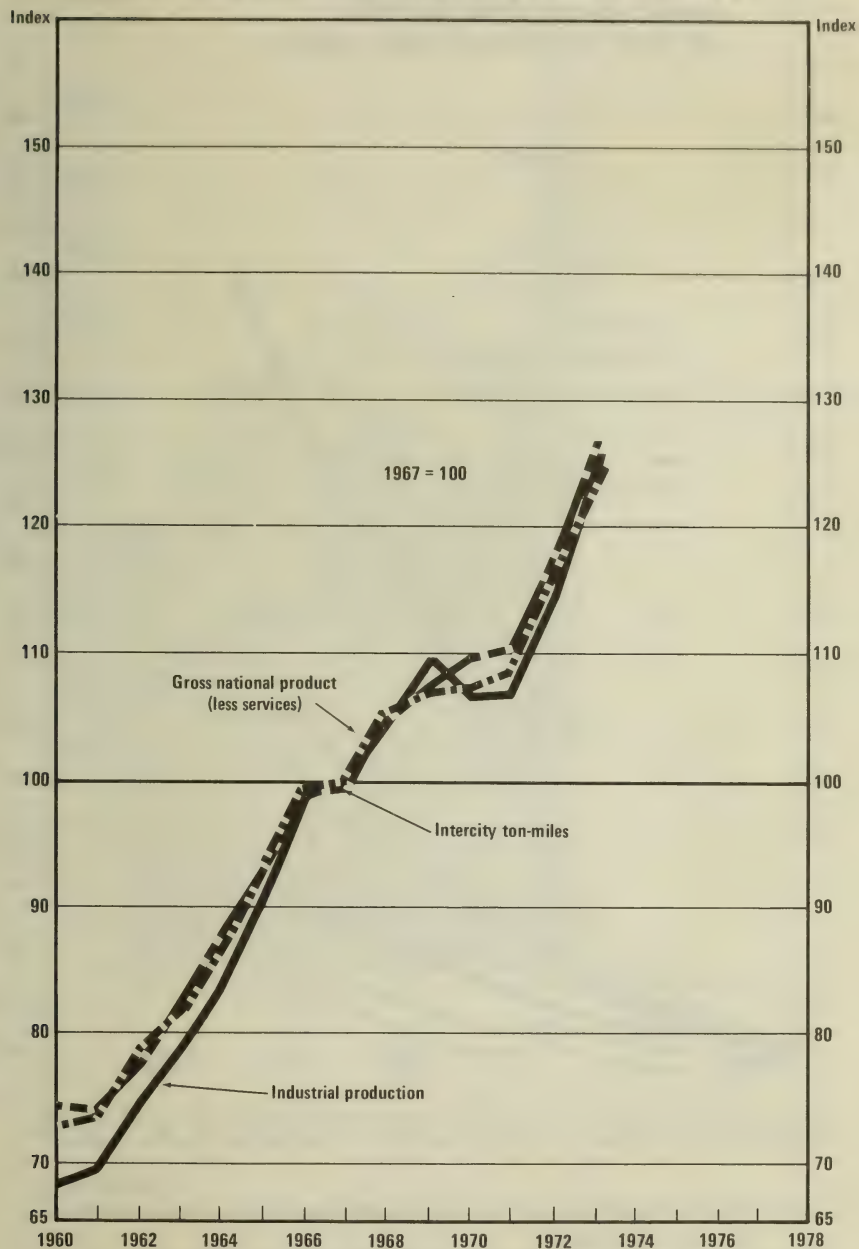
¹ Available data included for pipeline departments of 5 large oil companies.

² Preliminary.

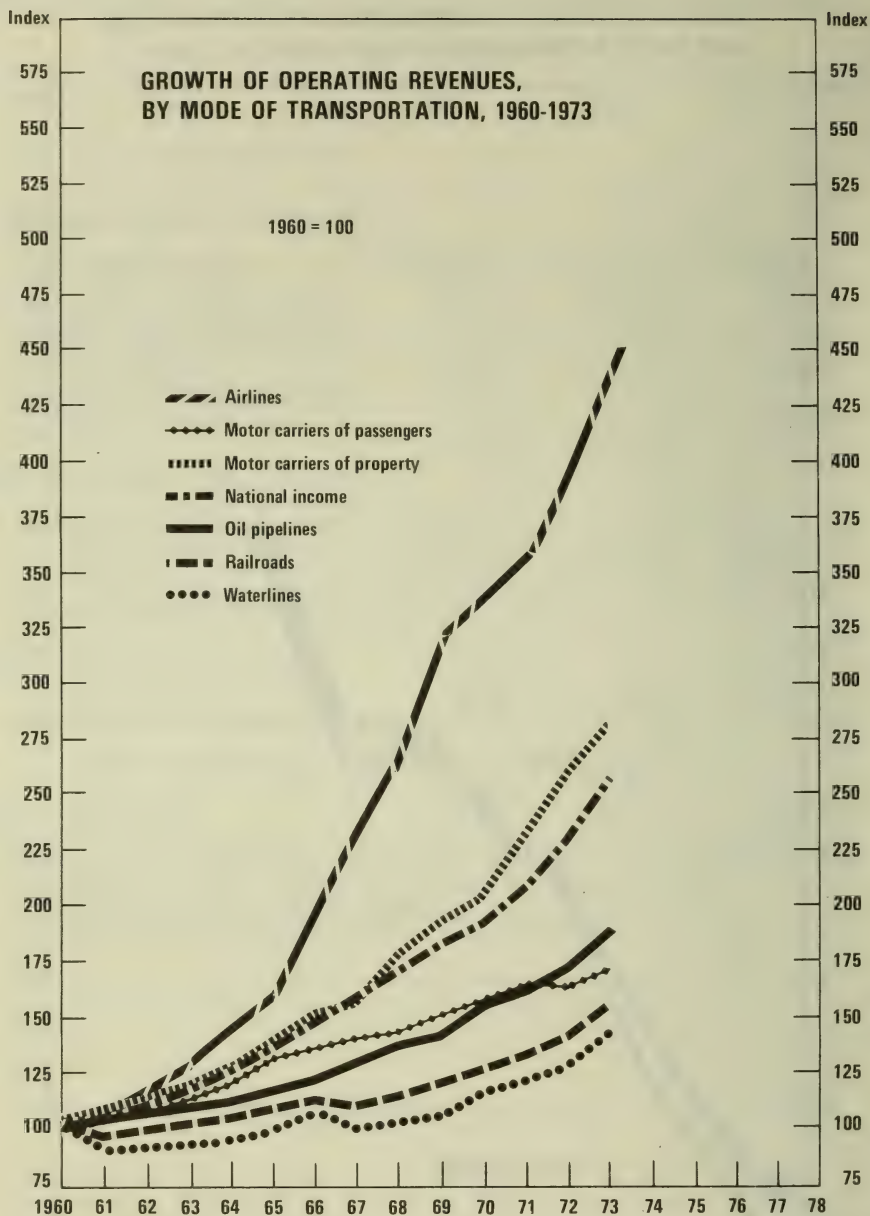
³ Does not include Federal income taxes on extraordinary and prior period items.

⁴ Includes income taxes on extraordinary and prior period items.

INDEXES OF INTERCITY TON-MILES, INDUSTRIAL PRODUCTION, AND GROSS NATIONAL PRODUCT (LESS SERVICES), 1960-1973



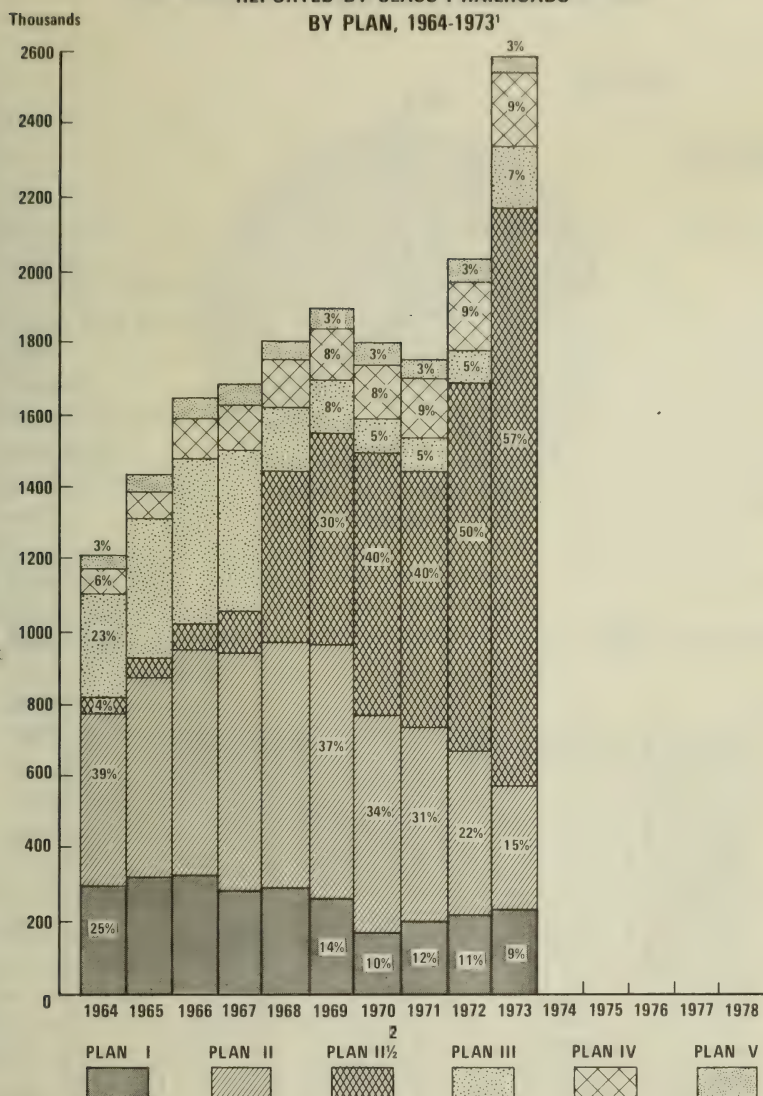
Sources: Federal Reserve Board, Office of Business Economics, and Interstate Commerce Commission.



Note: Excludes Electric Railways and Railway Express which combined are less than one percent of the total 1973 Revenues.

Source: Annual reports to the Interstate Commerce Commission and the Civil Aeronautics Board. National Income — Department of Commerce.

**PIGGYBACK TRAILER AND CONTAINER TERMINATIONS
REPORTED BY CLASS I RAILROADS
BY PLAN, 1964-1973¹**

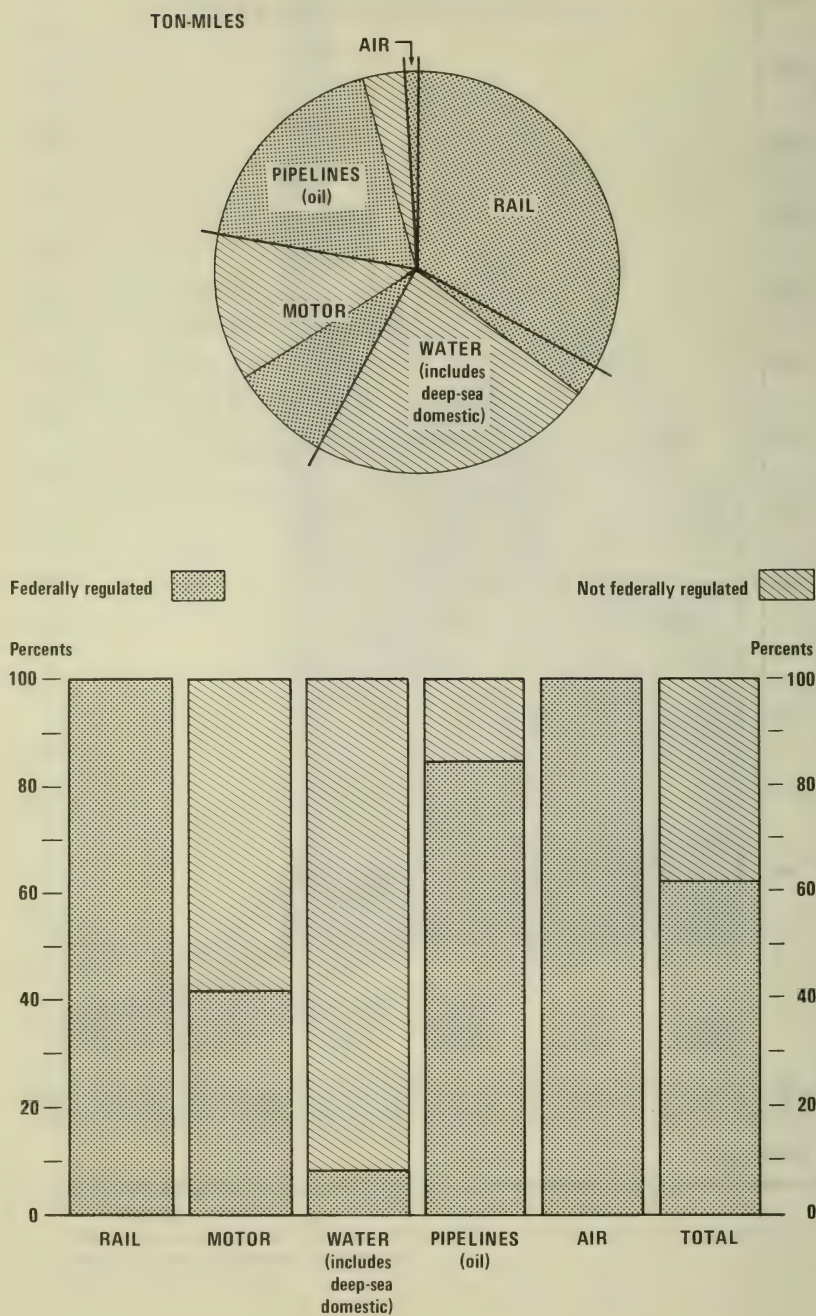


1. Excludes various other arrangements; in 1973 such exclusions accounted for approximately 5 percent of the total. Revisions in the report form effective July 1, 1972, may have had some influence in the relative plan changes.

2. Includes Plan II½.

Source: Bureau of Economics, Statement No. 66-1, Piggyback Traffic Characteristics (1966) and Transport Economics.

INTERCITY TON-MILES OF FEDERALLY REGULATED AND NOT FEDERALLY REGULATED CARRIERS, 1972



INDEX

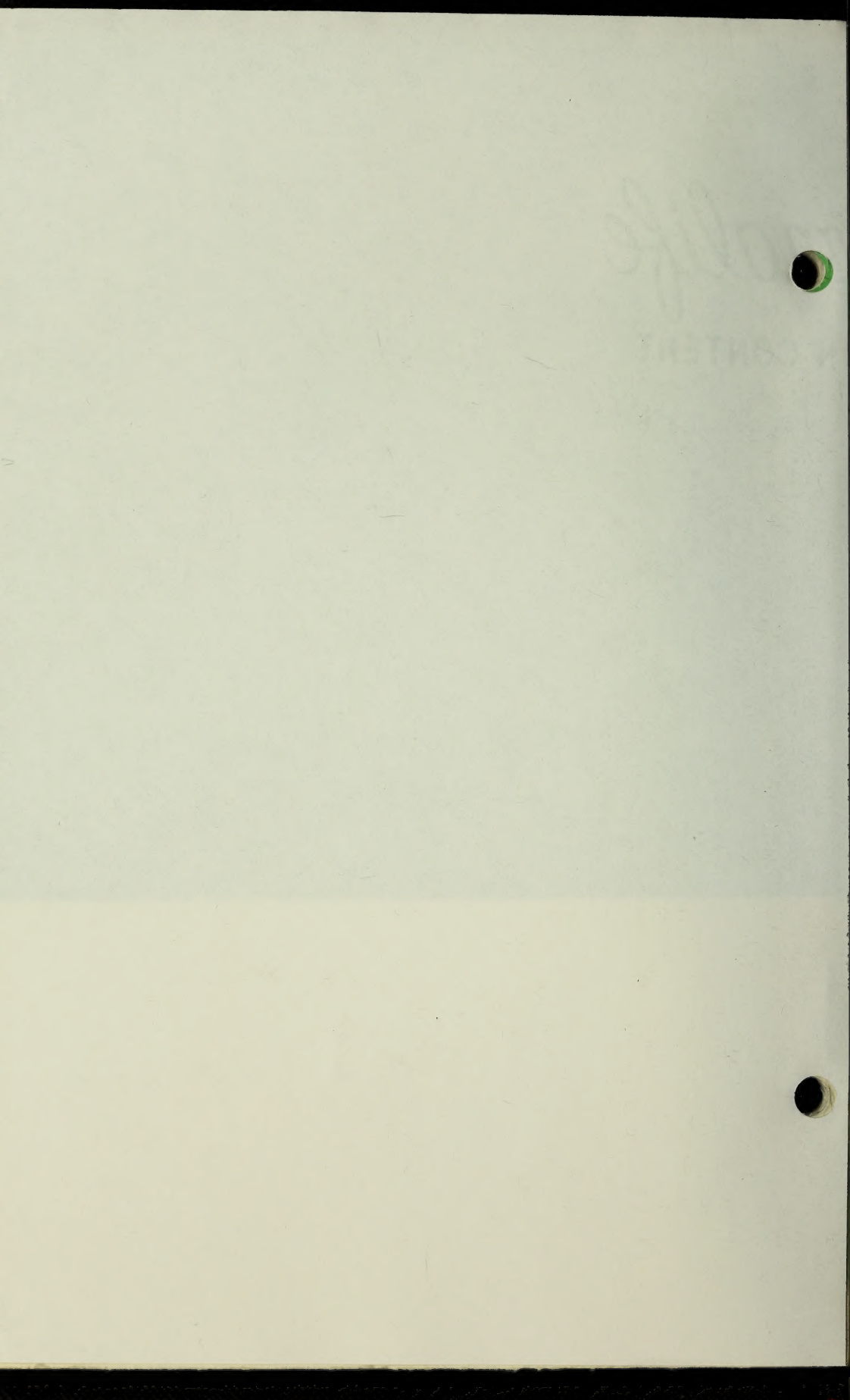
Abandonments.....	22-23, 106
Accounting.....	62
Agricultural cooperatives.....	72
American Rail Box Car Co.....	11
Amtrak.....	27-30, 55
Automation.....	61, 94
Auto-Train service.....	30
Bankruptcy Act.....	16-19, 39
Boston & Maine RR.....	18-19
Brokers.....	50-51
Buses.....	49
Car shortages.....	34, 85
Carrier financial condition:	
Buses.....	49, 126
Express companies.....	54
Freight forwarders.....	51, 129
Motor carriers of property.....	38, 125
Pipelines.....	56, 130
Railroads.....	13, 121-123
Water carriers.....	52, 127-128
Charter services.....	50
Civil Aeronautics Board.....	9, 54
Civil Service Commission.....	94
Conglomerates.....	9, 83, 91
Consolidated Rail Corporation (Conrail).....	16, 25, 88
Construction and operation, rail lines.....	21
Consumer protection.....	3, 42, 61, 69
Containerization.....	51
Contract carriers.....	46, 48, 50
Court actions.....	79
Credit regulations.....	44, 70, 73
Deepwater ports.....	85
Department of Justice.....	73, 85
Department of Transportation.....	16, 41, 88
Discontinuances, passenger train service.....	27
Discrimination.....	32, 34, 89
Division of revenue.....	30
Energy shortages.....	5, 66, 85-87

Enforcement program.....	69-74, 113
Environmental issues.....	24, 31, 33, 64, 80
Erie Lackawanna Railway Co.....	18-19, 21
Exemptions.....	53, 84, 89
Express companies.....	54, 62, 119-120
Federal Maritime Commission.....	52-53, 58, 89
Federal Power Commission.....	87
Freight forwarders.....	51, 57, 84, 129
General Accounting Office.....	94
Holding companies.....	9, 12, 92
Household goods carriers.....	42, 46, 51, 69
Intermodal operations.....	52, 57
Interstate Commerce Commission:	
Administration.....	93
Appropriations and employment.....	93, 117
Budget.....	95
Cost reduction and management improvement.....	93
Evaluation program.....	93
Legislative Activities.....	83-92
Manpower development.....	93
Organization.....	64, 94, 97
Paperwork and records management.....	95
Publications.....	114
Workload.....	104
Judicial review.....	84
Labor problems.....	20, 44
LASH operations.....	53, 58
Legislative activities of Commission.....	83-92
Loss and damage claims.....	43, 49, 83
Mergers, unifications, and purchases.....	26, 39, 53, 59
Mini-Ship operations.....	53
Motor carriers—Passenger.....	49, 126
Motor carriers—Property.....	38, 125
National Environmental Policy Act, implementation.....	24, 64, 80
New York, New Haven & Hartford R.R. Co.....	19
Northeastern railroad situation.....	15
Office of Management and Budget.....	94
Oil pipelines.....	56, 89, 130
Operating rights.....	45
Penn Central Transportation Co.....	15, 29
Piggyback.....	51, 81
Pipelines.....	56, 89, 130
Pooling.....	40
Procedural matters.....	24
Rail Passenger Service Act of 1970.....	27, 29
Rail Services Planning Office (RSPO).....	16, 88, 94

Railroad debt structure.....	15
Railroad Rate Adjustment Act of 1973.....	32
Railroads.....	13, 121-123
Railway Express Agency.....	54, 120
Rates.....	31, 44, 51
Rebates and concessions.....	71
Regional Rail Reorganization Act of 1973.....	16, 19, 27, 84, 87
Reorganizations.....	15, 18, 21, 39
Rulemaking proceedings.....	75-78
Safety and fitness.....	41
SEABEE operations.....	53
Securities regulation.....	10, 91
Service standards, passenger train.....	29, 94
Small shipments.....	41, 54-55, 61
Special Projects Counsel and Coordinator.....	33
Statistics.....	119-130
Suspension and Fourth Section Board.....	59
Tariffs.....	59, 108
Through routes and joint rates.....	30, 58, 88
Train discontinuances, passenger service.....	27
United States Railway Association (USRA).....	16, 25, 88
Unlawful operations.....	72
Water carriers.....	52, 127-128



Life
CONTENT



UNIVERSITY OF ILLINOIS-URBANA



3 0112 084228987